

THE THIRD REICH FROM ORIGINAL SOURCES



THE SS ON TRIAL

Evidence from Nuremberg



The Illustrated Edition

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Foreword

The Nuremberg Trials were held by the four victorious Allied forces in the Palace of Justice, Nuremberg from November 1945 to October 1946. Famous for prosecuting the major German war criminals, they also tried the various groups and organisations that were at the heart of Nazi Germany.

There were four counts against the accused:

- Count One: The Common Plan or Conspiracy
- Count Two: Crimes against Peace
- Count Three: War Crimes
- Count Four: Crimes against Humanity

The Rt. Hon. Sir Geoffrey Lawrence of Great Britain was the President of the court, and the United States of America, France, the United Kingdom, and the Union of Soviet Socialist Republics each provided one judge and an alternate, as well as a prosecutor and their assistants. Each defendant was given counsel, the majority of whom were German, along with a team of assistants, clerks and lawyers.

This volume is concerned with the trial of the SS and includes all testimony regarding this organisation. The defense counsel were as follows:

- Ludwig Babel, Counsel for the SS and SD to 18th March 1946, Counsel for the SS to 11th June 1946 and Co-counsel for the SS to 27 August 1946.
- Horst Pelckmann, Co-counsel for the SS from 2nd March 1946, and Counsel for the SS from 1st June 1946
- Dr Carl Haensel, Associate to Dr. H. Pelckmann from 1st April 1946
- Dr Hans Gawlik, Counsel for the SD from 18th March 1946

The witnesses called for the trial of the SS include among others, Friedrich Karl von Eberstein, Paul Hausser, Georg Konrad Morgen and Wolfram Sievers.

Friedrich Karl von Eberstein (1894-1979) was part of the German nobility, and an early member of the Nazi Party, the SA, and the SS. He rose to become a Reichstag delegate, an HSSPF (Higher SS and Police Leader) and SS-Oberabschnitt Führer (chief of the Munich Police). Eberstein testified about the organisation and history of the SS and SA, and their links with the German nobility. He was questioned that, in his role as chief of the Munich Police, how he did not know about the atrocities committed in Dachau concentration camp, only a few miles away, but he stated he had no authority over the camp commander.

Paul Hausser (1880-1972) was an officer in the German Army, achieving the high rank of Lieutenant-General in the inter-war Reichswehr. After retirement from the regular Army he became one of the most eminent leaders of the Waffen-SS, and fought in both the eastern and western fronts of World War II. During questioning, he vigorously defended the military role of the Waffen-SS and strongly denied that it was involved in any atrocities. After the war he sought to rehabilitate the reputation and legal status of the Waffen-SS.

Georg Konrad Morgen (1909-1982) was an SS judge drafted compulsorily into the General SS. In 1943 he was assigned a case of corruption in the concentration camp of Weimar-Buchenwald. His investigations over time became more extensive, and he discovered the policy of mass executions in the camps. Morgen went on to prosecute so many Nazi officers for individual violations that by April 1944, Himmler personally ordered him to restrain his cases. After the war, he continued in his legal career.

Wolfram Sievers (1905-1948) was the Reich manager of the Ahnenerbe (Ancestral Heritage Society) and was tried during the Doctors' Trial where

he was dubbed the “Nazi Bluebeard”. The experiments on humans had been conducted under the auspices of the Institute for Military Scientific Research, a part of the Ahnenerbe, and therefore the prosecution at Nuremberg laid the final responsibility for these barbaric acts on Sievers. He was hanged for crimes against humanity in June 1948.

Bob Carruthers

Statement of Criminality of Groups and Organisations

DIE SCHUTZSTAFFELN DER NATIONALSOZIALISTISCHEN DEUTSCHEN ARBEITERPARTEI (COMMONLY KNOWN AS THE SS) INCLUDING DER SICHERHEITSDIENST (COMMONLY KNOWN AS THE SD)

Die Schutzstaffeln der Nationalsozialistischen Deutschen Arbeiterpartei (commonly known as the SS) including Der Sicherheitsdienst (commonly known as the SD) and all offices, departments, services, agencies, branches, formations, organisations and groups of which it was at any time comprised or which were at any time integrated in it, including but not limited to, the Allgemeine SS, the Waffen SS, the SS Totenkopf Verbände, SS Polizei Regimente and Der Sicherheitsdienst des Reichsfuehrers-SS (commonly known as the SD).

The SS, originally established by Hitler in 1925 as an elite section of the SA to furnish a protective guard for the Fuehrer and Nazi Party leaders, became an independent formation of the Nazi Party in 1934 under the leadership of the Reichsfuehrer-SS, Heinrich Himmler. It was composed of voluntary members, selected in accordance with Nazi biological, racial and political theories, completely indoctrinated in Nazi ideology and pledged to uncompromising obedience to the Fuehrer. After the accession of the Nazi

conspirators to power, it developed many departments, agencies, formations and branches and extended its influence and control over numerous fields of governmental and Party activity. Through Heinrich Himmler, as Reichsfuehrer-SS and Chief of the German Police, agencies and units of the SS and of the Reich were joined in operation to form a unified repressive police force. Der Sicherheitsdienst des Reichsfuehrers-SS (commonly known as the SD), a department of the SS, was developed into a vast espionage and counter-intelligence system which operated in conjunction with the Gestapo and criminal police in detecting, suppressing and eliminating tendencies, groups and individuals deemed hostile or potentially hostile to the Nazi Party, its leaders, principles and objectives, and eventually was combined with the Gestapo and criminal police in a single security police department, the Reich Main Security Office.

Other branches of the SS developed into an armed force and served in the wars of aggression referred to in Counts One and Two of the Indictment. Through other departments and branches the SS controlled the administration of concentration camps and the execution of Nazi racial, biological and resettlement policies. Through its numerous functions and activities it served as the instrument for ensuring the domination of Nazi ideology and protecting and extending the Nazi regime over Germany and occupied territories. It thus participated in and is responsible for the crimes referred to in Counts One, Two, Three and Four of the Indictment.



Oberster SA-Führer and SS Member no. 1 Adolf Hitler at an SA Parade in Nuremberg, September 1935.

The Indictment

WEDNESDAY, 19TH DECEMBER, 1945

MAJOR FARR: May it please the Tribunal, the next organisation to be dealt with is the S.S. The document books in this case are lettered "Z." For convenience in handling the books, because of the bulk of documents, we have divided them into two volumes. I shall in referring to a document number, refer to the volume in which that document appears.

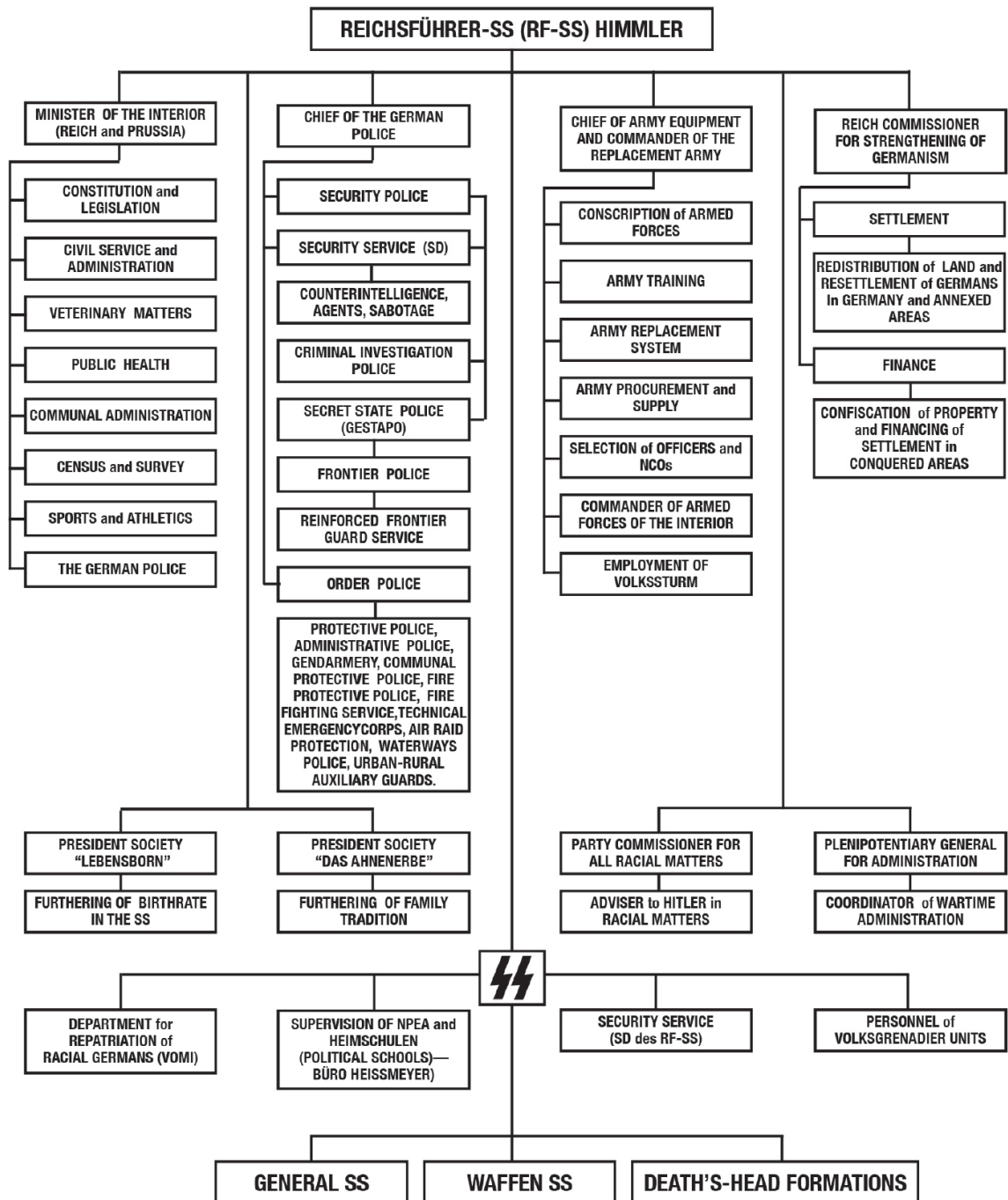
About a week or ten days ago there appeared in a newspaper, circulated in Nuremberg, an account of a visit by that paper's correspondent to a camp in which S.S. prisoners-of-war were confined. The thing which particularly struck the correspondent was the one question asked by the S.S. prisoners. Why are we charged as war criminals? What have we done except our normal duty?

The evidence now to be presented to the Tribunal will, we expect, answer that question. It will show that just as the Nazi Party was the very heart - the core - of the conspiracy, so the S.S. was the very essence of Nazism. For the S.S. was the elite group of the Party, composed of the most thoroughgoing adherents of the Nazi cause, pledged to blind devotion to Nazi principles, and prepared to carry them out without any question and at any cost - a group in which every ordinary value has been so subverted that its members can ask "What is there unlawful about the things we have done?"

During the past weeks the Tribunal has heard evidence of the conspirators' criminal programme for aggressive war, for concentration camps, for the extermination of the Jews, for enslavement of foreign labour

and illegal use of prisoners-of-war, for deportation and Germanisation of inhabitants of conquered territories. Through all this evidence the name of the S.S. ran like a thread. Again and again that organisation and its components were referred to. It is my purpose to show why it performed a responsible role in every one of these criminal activities, why it was - and, indeed, had to be - a criminal organisation.

The creation and development of such an organisation was, indeed, essential for the execution of the conspirators' plans. Their sweeping programme and the measures they were prepared to use and did use, could be fully accomplished neither through the machinery of the Government nor of the Party. Things had to be done for which no agency of government and no political party - even the Nazi Party - would openly take full responsibility. A specialised type of apparatus was needed, an apparatus which was to some extent connected with the Government and given official support but which, at the same time, could maintain a quasi-independent status, so that its acts could be attributed neither to the Government nor to the Party as a whole. The S.S. was that apparatus.



The functions of the Reichsführer—SS.

Like the S.A., it was one of the seven components or formations of the Nazi Party, referred to in the Decree on the Enforcement of the Law for Securing the Unity of Party and State, of 29th March, 1935, published in the Reichsgesetzblatt for that year, Part I, Page 503. That decree will be found in our Document 1725-PS. I shall not read it. I assume that the Court will take judicial notice of it. The status of the S.S., however, was above that of the other formations. As the plans of the conspirators progressed, it acquired new functions, new responsibilities, and an increasingly more important place in the regime. It developed during the course of the conspiracy into a highly complex machine, the most powerful in the Nazi State, spreading its tentacles into every field of Nazi activity.

The evidence which I shall present will be directed, first, towards showing very briefly the origin and early development of the S.S.; second, how it was organised - that is, its structure and its component parts; third, the basic principles governing the selection of its members and the obligations they undertook; and finally, its aims and the means used to accomplish them, the manner in which it carried out the purposes of the conspirators, and thus was a responsible participant in the crimes alleged in the Indictment.

The history, Organisation and publicly announced functions of the S.S. are not controversial matters. They are not matters to be learned only from secret files and captured documents. They were recounted in many publications, circulated widely throughout Germany and the world official books of the Nazi Party itself and books, pamphlets and speeches by S.S. and State officials published with S.S. and Party approval. Throughout the presentation of the case I shall frequently refer to five or six such publications, translations of which - in whole or in part - appear in the document books. Although I shall quote portions of them, I shall not attempt to read them all in full, since I assume that the contents of such authoritative publications may be judicially noticed by the Tribunal.

Now to take up the origin of the S.S. The first aim of the conspirators - as the evidence already presented to the Court has shown - was to gain a foothold in politically hostile territory, to acquire mastery of the streets and to combat any and all opponents with force. For that purpose they needed their own private, personal police Organisation. Evidence has just been introduced in the case against the S.A. - showing how that Organisation was created to fill such a role. But the S.A. was outlawed in 1923. When Nazi Party activity was again resumed in 1925, the S.A. remained outlawed. To fill its place and to play the part of Hitler's own personal police, small mobile groups known as protective squadrons (Schutzstaffel) were created. This was the origin of the S.S. in 1925. With the reinstatement of the S.A. in 1926, the S.S. for the next few years ceased to play a major role. But it continued to exist as an Organisation within the S.A. - under its own leader, however - the Reichsfuehrer S.S. This early history of the S.S. is related in two of the authoritative publications to which I have referred: the first is a book by S.S. Standartenfuehrer Gunter d'Alquen, entitled 'Die S.S.' This book - a pamphlet of some 30 pages - is an authoritative account of the history, mission and Organisation of the S.S., published in 1939. As indicated on its frontispiece, it was written at the direction of the Reichsfuehrer S.S., Heinrich Himmler. Its author, S.S. Standartenfuehrer Gunter d'Alquen, was the editor of the official S.S. publication 'Das Schwarze Korps.' This book is our Document 2284-PS, I offer it in evidence Exhibit USA 438. The passage to which I refer will be found on Page 5 and 7 of the original, and on Page 1 of the translation.

I shall not now read that passage.

The second publication is an article by Himmler, entitled "Organisation and Obligations of the S.S. and the Police." It was published in 1937 in booklet containing a series of speeches or essays by important officials of Party and the State - known as "National Political Course for the Arm Forces from 15th to 23rd January, 1937." The article by Himmler, which I

refer, appears on Pages 137-161 of that pamphlet. Large extra from it make up our Document 1992-A-PS. I offer the essay by Himmler as Exhibit USA 439. The passage to which I referred appears on Page 137 of the original and Page 1 of the translation, our Document. 1992-A-PS. I shall have occasion to quote from both these publications, but with respect to this matter of history, I assume that these references to the pertinent passages in them are enough.



Heinrich Himmler, Reichsführer of the Schutzstaffel (SS) “Any description of organization, mission, and structure of the SS cannot be understood unless one tries to conceive it inwardly with one’s blood and heart. It cannot be explained why we contain so much strength though we number so few.”

As early as 1929 the conspirators recognised that their plans required organisation in which the main principles of the Nazi system, specifically the racial principles, would not only be jealously guarded but would be carried to such extremes as to inspire or intimidate the rest of the population - an organisation in which, also, there would be assured complete freedom on the part of the leaders and blind obedience on the part of the members. The S.S. was built up to meet this need. I quote from d'Alquen's book 'Die S.S.', at Page 7 - this passage appears in our Document 2284-PS, at Page 4 of the translation, paragraph 4:

"On 16th January, 1929, Adolf Hitler appointed his tested comrade of long standing, Heinrich Himmler, as Reichsfuehrer S.S. Heinrich Himmler assumed charge therewith of the entire Schutzstaffel, totalling at the time 280 men, with the express and particular commission of the Fuehrer to form this organisation into an elite troop of the Party, a troop dependable in every circumstance. With this day the real history of the S.S. begins as it stands before us today in all its deeper essential features, firmly anchored in the National Socialist movement. For the S.S. and its Reichsfuehrer, Heinrich Himmler, its first S.S. men, have become inseparable in the course of these battle-filled years."

Carrying out Hitler's directive, Himmler proceeded to build up out of this small force of men an elite organisation - to use d'Alquen's words: "composed of the best physically, the most dependable, and the most faithful men in the Nazi movement." I read another passage from d'Alquen, at Page 12 of the original, Page 6 of the translation, paragraph 5:

"When the day of seizure of power had finally come, there were 52,000 S.S. men, who in this spirit bore the revolution in the van, marched into the new State which they began to help to form everywhere, in their stations and positions, in profession and in science, and in all their essential tasks."

The conspirators now had the machinery of government in their hands. The initial function of the S.S. - that of acting as private army and personal

police force - was thus completed. But its mission had in fact really just begun. That mission is described in the Organisation Book of the N.S.D.A.P. for 1943. The pages from that book dealing with the S.S. - Pages 417 to 428 - are translated in our Document 2040-PS. The organisation's book has already been offered in evidence as Exhibit USA 303. The passage to which I refer appears on Page 417 of the original, and on Page 1, paragraph 2, of the translation, our Document 2640-PS:

“Missions

The most original and most eminent duty of the S.S. is to serve as the protectors of the Fuehrer.

By decree of the Fuehrer, the sphere of duties has been enlarged to include the internal security of the Reich.”

This new mission - protecting the internal security of the regime - was somewhat more colourfully defined by Himmler in his pamphlet “The S.S. as an Anti-Bolshevist Fighting Organisation,” published in 1936. It is our Document 1851-PS. I offer this document in evidence as Exhibit USA 440. The definition to which I refer appears at the bottom of Page 29 of the original, on the third page of the translation, middle of the paragraph:

“We shall unremittingly fulfil our task, the guaranty of the, security of Germany from the interior, just as the Wehrmacht guarantees the safety of the honour, the greatness, and the peace of the Reich from the exterior. We shall take care that never again in Germany, the heart of Europe, will the Jewish-Bolshevistic revolution of subhumans be able to be kindled either from within or through emissaries from without. Without pity we shall be a merciless sword of justice for all those forces whose existence and activity we know, on the day of the slightest attempt, may it be today, may it be in decades or may it be in centuries.”

This conception necessarily required an extension of the duties of the S.S. into many fields. It involved, of course, the performance of police functions. But it involved more. It required participation in the suppression

and extermination of all internal opponents of the regime. It meant participation in extending the regime beyond the borders of Germany, and, therefore, came to mean eventually participation in every type of activity designed to secure a hold over those territories and populations which, through military conquest, had come under German domination.

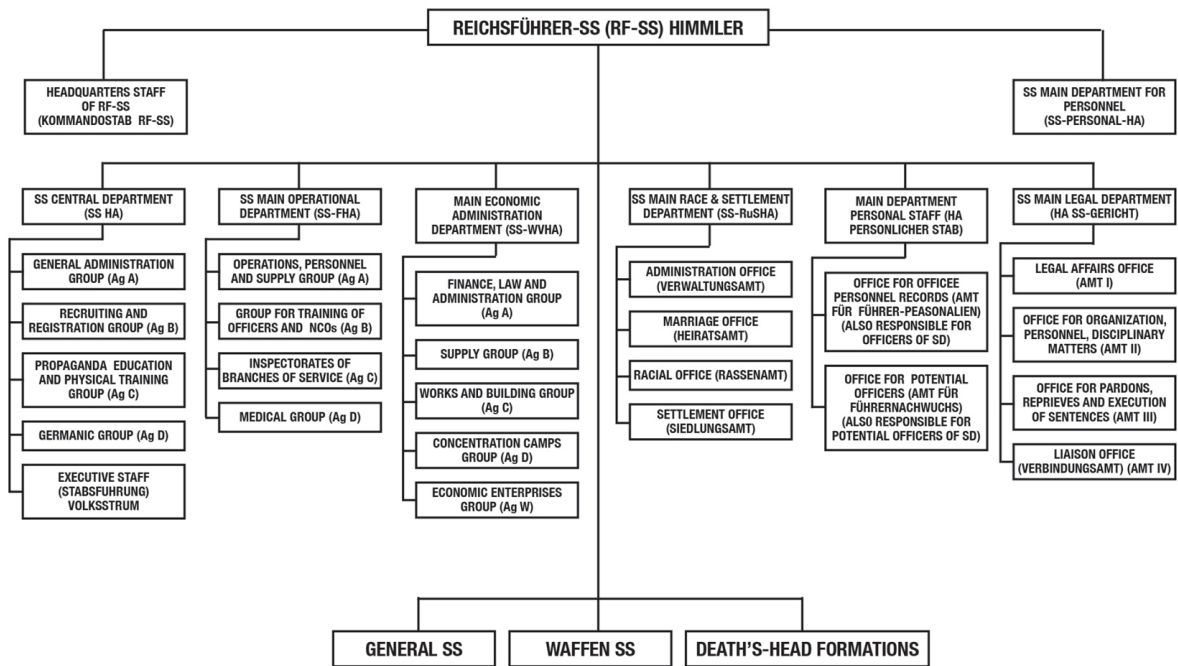
The expansion of S.S. duties and activities resulted in the creation of several branches and numerous departments and the eventual development of a highly complex machinery. Those various branches and departments cannot be adequately described out of the context of their history. That description I hope will emerge fully as evidence of the activities of the S.S. is presented. But it may be appropriate to anticipate, and at this point to say a word about the structure of the S.S.

For this purpose, a glance at a chart depicting the organisation of the S.S. as it appeared in 1945 may be helpful. There are being handed to the Tribunal small copies of this chart, two in English, one in French and one in Russian. In addition, there are handed eight larger copies of the chart in the original German, which bears on it the photostat of the affidavit of Gottlieb Berger, formerly Chief of the S.S. Main Office, who examined the chart, and stated that it correctly represented the organisation of the S.S.

I now offer in evidence the chart of the Supreme and Regional Command of the S.S. as Exhibit USA 445.

At the very top of the chart is Himmler, the Reichsfuehrer S.S., who commanded the entire organisation. Immediately below - running across the chart and down the right-hand side, embraced within the heavy line - are the twelve main departments constituting the Supreme Command of the S.S. Some of these departments have been broken down into the several offices of which they were composed, as indicated by the boxes beneath them. Other departments have not been so broken down. It is not intended to indicate that there were not subdivisions of these latter departments as well.

The breakdown is shown only in those cases where the constituent offices of some department may have a particular significance in this case.



SS High Command.

These departments and their functions are described in two official Nazi publications: the first is the Organisation Book of the N.S.D.A.P. for 1943 (our Document 2640-PS) already introduced in evidence as Exhibit USA 323. The description, which I shall not now read, appears on Pages 419-420 of the original and Pages 2 to 4 of the translation. The second is an S.S. manual, which bears the title: "The Soldiers Friend - Pocket Diary for the German Armed Forces - Edition D: Waffen S.S." It was prepared at the direction of the Reichsfuehrer S.S. and issued by the S.S. Main Office for the year ending 1942. It is our Document 2825-PS. I offer it in evidence as Exhibit USA 441. The description to which I refer appears on Pages 20 to 22 of the original, and Pages 1 and 2 of the translation. I will later have occasion to read the description of the functions of some of the departments in full. But I assume that the Court will take judicial notice of the entire passages to which I have referred. In addition, the departments are listed in a directory of the S.S., published by one of the main departments of the S.S. This document was found in the files of the Personal Staff of the Reichsfuehrer S.S., the first department on the left of the chart. It is entitled "Directory for the Schutzstaffel of the N.S.D.A.P., 1st November, 1944." It is marked "Restricted" and bears the notation "Published by S.S. Fuehrungshauptamt, Kommandant of the General S.S.," which is the fifth box from the left. It is our Document 2769-PS. I offer it in evidence as Exhibit USA 442. It is simply a list of the names of the departments and offices with their addresses and telephone numbers, and corroborates the statements in the two earlier publications to which I referred.

Returning now to the chart - following down the central spine from the Reichsfuehrer S.S. to the regional level, we come to the Higher S.S. and Police Leader, commonly known as H.S.S.P.F., the Supreme S.S. Commander in each region. I shall refer to his functions at a later point. Immediately below him is the breakdown of the organisation of the Allgemeine or General S.S. To the left are indicated two other branches of

the S.S. - the Death Head Units (Totenkopf Verbaende) and the Waffen S.S. To the right, under the H.S.S.P.F., is the S.D. All of these components, together with the S.S. Police Regiments, are specifically named in the Indictment - Appendix B, Page 36 - as being included in the S.S.

Now a word as to these components. Up to 1933, there were no such specially designated branches. The S.S. was a single group - a group of 44 "volunteer political soldiers." It was out of this original nucleus that the new units developed.

The "Allgemeine" - that is, General S.S. - was the common basis, the main stem out of which the various branches grew. It was composed of all members of the S.S. who did not belong to any of the special branches.

It was the backbone of the entire organisation. The personnel and officers of the main departments of the S.S. Supreme Command were members of this branch. Except for high-ranking officers and those in staff capacities in the main offices of the S.S. Supreme Command, its members were part-time volunteers. As the evidence will show, its members were utilised in about every phase of S.S. activity. They were called upon in the anti-Jewish pogroms of 1938; they took over the task of guarding concentration camps during the war; they participated in the colonisation and resettlement programme. In short, the term "S.S." normally meant the General S.S.

It was organised on military lines, as will be seen from the chart, ranging from district (Oberabschnitt) and sub-district (Abschnitt) down through the regiment, battalion, company, to the platoon. Until after the beginning of the war it constituted numerically the largest branch of the S.S. In 1939 d'Alquen, the official S.S. spokesman, said, and I quote from his book, our Document 2284-PS, Page 9, paragraph 3, of the English translation, and Page 18 of the original document:

"The strength of the General S.S., 240,000 men, is sub-divided today into 14 corps, 38 divisions, 140 infantry regiments, 19 mounted regiments, 14

communication battalions and 19 engineer battalions as well as motorised and medical units. This General S.S. stands fully and wholly on call as in the fighting years ...”

Similar reference to the military organisation of the General S.S. will be found in Himmler’s speech “Organisation and Obligations of the S.S. and the Police,” our Document 1992-A-PS, at Page 4 of the translation. and in the Organisation Book of the N.S.D.A.P. for 1943, our Document 2460-PS, at Pages 4 and 5 of the translation.

Members of this branch, however, with the exception of certain staff personnel - were subject to compulsory military service. As the result of the draft of members of the General S.S. of military age into the Army, the numerical strength of active members considerably declined during the war. Older S.S. men and those working in or holding high positions in the main departments of the Supreme Command of the S.S. remained. Its entire strength during the war was probably not in excess of 40,000 men.

The second component to be mentioned is the Security Service of the Reichsfuehrer S.S., almost always referred to as the S.D. Himmler described it in his speech, “Organisation and Obligations of the S.S. and the Police” - our Document 1992-A-PS. I quote a passage from Page 8, last paragraph of the translation, Page 151 of the original, paragraph 3:

“I now come to the Security Service (S.D.); it is the great ideological Intelligence Service of the Party, and, in the long run, also that of the State, During the time of struggle for power it was only the Intelligence Service of the S. S. At that time we had, for quite natural reasons, an Intelligence Service with the regiments, battalions and companies.” - He refers there to the regiments, battalions and companies of the General S. S. - “ We had to know what was going on on the opponents’ side, whether the Communists intended to hold a meeting today or not, whether our people were to be suddenly attacked or not, and similar things. I had already separated this service in 1931 from the troops “ (I note that it appears in the

mimeographed translation as 1941, but, as will appear from a passage on the next pages of the translation, it was 1931 to which he was referring) “from the units of the General S.S., because I considered it to be wrong not to do so. For one thing, secrecy is endangered, then the individual men, or even the companies, are too likely to discuss everyday problems.”

Although, as Himmler put it, the S.D. was only the Intelligence Service of the S.S. during the years preceding the accession of the Nazis to power, it became a much more important organisation shortly thereafter. It had been developed into such a powerful scientific espionage system under its chief, Reinhard Heydrich, that on 9th June, 1934, just a few weeks before the blood purge of the S.A., it was made, by decree of the defendant Hess, the sole Intelligence and Counter-intelligence agency of the entire Nazi Party. I refer in support of that statement to d’Alquen’s book, *Die S.S.*, our Document 2284-PS, at Page 11 of the translation. I shall not pause to quote that passage. The Organisation and numbers of the S.D., as they stood in 1937, were thus described by Himmler - I quote again from his article “Organisation and Obligations of the S.S. and the Police,” our Document 1992-A-PS, at Page 9 of the translation, second paragraph, Page 151 of the original, paragraph 4:

“The Security Service had already been separated from the troop in 1931 and separately organised. Its higher headquarters coincide today with the Oberabschnitte and Abschnitte “ (I refer to the “Abschnitte” and “Oberabschnitte” indicated on the chart) “and it has also field offices, its own organisation of officials, and a great many command posts, and is approximately three to four thousand men strong, or at least it will be when it is built up.”

Up to 1939, its headquarters was the S.S. Main Security Office (Sicherheitshauptamt), which, as I shall shortly show, became amalgamated in 1939 in the Reich Main Security Office (R.S.H.A.) one of the S.S. main departments shown on the chart before you - the sixth box from the left.

The closer and closer collaboration of the S.D. with the Gestapo and Criminal Police - which eventually resulted in the creation of this R.S.H.A. - and the activities in which the S.D. engaged in partnership with the Gestapo, will be taken up in the presentation of the case against the Gestapo. The S.D. was, of course, at all times an integral and important component of the S.S. But it is more practicable to deal with it in connection with the activities of the whole repressive police system with which it functioned.

The third component to be mentioned is the "Waffen S.S." - the combat arm of the S.S. - created, trained and finally utilised for purposes of aggressive war. The reason underlying the creation of this combat branch was described in our Document 2640-PS, the Organisation Book of the Nazi Party for 1943. It appears on Page 427A of the original Page 5, paragraph 7 of the translation:

"The Armed S.S. originated out of the thought: to create for the Fuehrer a selected long-service troop for the fulfilment of special missions. It should make it possible for members of the General S.S., as well as for volunteers who fulfil the special requirements of the S.S., to fight in the battle for the evolution of the National Socialist idea, with weapon in hand, in unified groups, partly within the framework of the Army."

The term "Waffen S.S." did not come into use until after the beginning of the war. Up to that time there were two branches of the S.S. composed of full-time, professional, well-trained soldiers - the so-called "S.S. Verfuegungstruppe" - translatable perhaps as S.S. Emergency Troops - and the "S.S. Totenkopf Verbaende" -The, Death Head Units. After the beginning of the war, the units of the S.S. Verfuegungstruppe were brought up to division strength, and new divisions were added to them. Parts of the S.S. Death Head Units were formed into a division - the "S.S. Totenkopf Division." All these divisions then came to be known collectively as the "Waffen S.S."

Let me now trace that development. I quote again from the Organisation Book of the Nazi Party for 1943, our Document 2640-PS, Page 427B of the original, Page 5, last paragraph of the translation:

“The origin of the Waffen S.S. goes back to the decree of 17th March, 1933, establishing the ‘Stabswache’ with the original strength of 120 men. Out of this small group developed the later-named ‘S.S. Verfuegungstruppe’ (S.S. Emergency Force), and the ‘Leibstandarte S.S. Adolf Hitler.’ In the course of the war these groups grew into divisions.”

THE PRESIDENT: Major Farr, is it necessary to go into this degree of detail about the Organisation of the S.S.?

MAJOR FARR: Sir, it seemed to me that it is highly important to know exactly what is the organisation with which we are dealing. There has been, I understand, a suggestion made to the Court that certain portions of this organisation are not criminal. It is contended by some that the part they played was a perfectly innocuous one, and it seems to me that before we can determine whether the organisation as a whole is criminal, whether any portion of it is severable, then we must know what the organisation is.

THE PRESIDENT: Would it not be possible to leave that question to evidence in rebuttal, if the defendants are setting up that any particular branch of the S.S. is not criminal?

MAJOR FARR: If we adequately lay the basis for our case now, it may not be necessary for us to make any rebuttal. We may satisfy the defendants that there is nothing in the contention that any portion of the S.S. is a lawful portion. The point I am particularly trying to make now is: there has been a good deal of contention that the “Waffen S.S.” is severable; that whatever may be said, for example, about the S.D. or the Death Head Units, the “Waffen S.S.” is something different - the “Waffen S.S.” is part of the Army. I think it is important to establish at the outset that the “Waffen S.S.” is as much a part of the S.S., as integral a part of the whole Organisation, as any of the other branches. I propose, therefore, to show the development of

the “Waffen S.S.,” growing out of the S.S. Emergency Troop, and to call to the attention of the Tribunal evidence showing how the “Waffen S.S.” is an integral part of the S.S. as a whole.

THE PRESIDENT: Well, you must take your own course.

MAJOR FARR: The “S.S. Verfuegungstruppe” were described in a top secret Hitler order, dated the 17th August, 1938. It is our Document No. 647- PS. I offer it in evidence as Exhibit USA 443. That document will be found in Volume I of the document book. I quote from Section II of that order, which appears on Page 2 of the translation, at the top of the page, and also on Page 2 of the original.

“II. The Armed Units of the S.S.

A. (The S.S. Verfuegungstruppe)

i. The S.S. Verfuegungstruppe is neither a part of the Wehr macht nor a part of the Police. It is a standing armed unit exclusively at my disposal. As such and as a unit of the N.S.D.A.P. its members are to be selected by the Reichsfuehrer S.S. according to the philosophical and political standards which I have ordered for the N.S.D.A.P. and for the Schutzstaffe. Its members are to be trained and its ranks filled with volunteers from those who are liable to serve in the army having finished their duties in the compulsory labour service. The service period for volunteers is 4 years. It may be prolonged for S.S. Unterfuehrer. Such regulations are in force for S.S. leaders. The regular compulsory military service (para. 8 of the law relating to military service) is fulfilled by service of the same amount of time in the S.S. Verfuegungstruppe.”

I want to quote a further short passage from that decree which will be found on Page 3 of the translation, in the middle of the page, and on Page 4 of the original order:

III. Orders in Case of Mobilisation A. The employment of the S.S. Verfuegungstruppe in case of mobilisation is a double one.

1. By the Supreme Commander of the Army within the wartime army. In that case it comes completely under military laws and regulations, but remains a unit of the N.S.D.A.P. politically.

2. In case of necessity, in the interior according to my orders, in that case it is under the Reichsfuehrer S.S. and Chief of the German Police.

In case of mobilisation, I myself will make the decision about the time, strength and manner of the incorporation of the S.S. Verfuegungstruppe into the war-time army; these things will depend on the inner-political situation at that time.”

Immediately after the issuance of this decree, and the Court will recall it was issued in August of 1938, this militarised force was employed with the Army for aggressive purposes—the taking over of the Sudetenland. Following this action, feverish preparation to motorise the force and to organise new units such as anti-tank, machine gun and reconnaissance battalions were undertaken pursuant to further directives of the Fuehrer. By September, 1939, the force was fully motorised, its units had been increased to division strength and it was prepared for combat. These steps are described in the Nationalist Socialist Yearbook for the years 1940 and 1941. I offer in evidence Pages 365 to 371 of the 1940 Yearbook. It is our Document 2164-PS. It will be Exhibit USA 255. I offer Pages 191 to 193 of the 1941 Yearbook - which is our Document 2163-PS - as Exhibit USA 444. Since the Yearbook is an official publication of the Nazi Party, edited by Reichsleiter Robert Ley and published by the Nazi Party publishing company, I assume that the Court will take judicial notice of the contents of these exhibits.



After the launching of the Polish invasion and as the war progressed, still further divisions were added. The Organisation Book of the Nazi Party for 1943 - our Document 2640-PS - lists some eight divisions and two infantry brigades as existing at the end of 1942. I refer to Page 427b of the original, Page 5, last paragraph of the translation. This was no longer an emergency force. it was an S.S. army and hence came to be designated as the Waffen S.S. Himmler referred to this spectacular development of this S.S. combat branch in his speech at Posen on 4th October, 1943, to S.S. Gruppenfuehrers. That speech has already been introduced in evidence at an earlier stage in the case, as Exhibit USA 170 - It is our Document 1919-PS.

I shall quote from that speech, Page 51 of the original, Page 2 of the translation, second paragraph, headed "The S.S. in War-Time."
 "Now I come to our own development, to that of the S.S. in the past months. Looking back on the whole war, this development was fantastic. It took place at an absolutely terrific speed. Let us look back a little to 1939.

At that time we were a few regiments, guard units, 8,000 to 9,000 strong - that is, not even a division, all in all 25,000 to 28,000 men at the outside. True, we were armed, but we really only got our artillery regiment as our heavy arm two months before the war began.”

I continue, quoting from the same speech a passage found on Page 8 of the English translation and on Page 103 of the original. The passage in the translation appears at about the middle of the page.

“In the hard battles of this year, the Waffen S.S. has been welded together in the bitterest hours from the most varied divisions and sections, and from these it formed: body-guard units (Leibstandarte), military S.S. (Verfuegungstruppe), Death Head Units, and then the Germanic S.S.”

Although tactically under the command of the Wehrmacht while in the field, it remained as much a part of the S.S. as any other branch of the organisation. Throughout the war it was recruited, trained, administered and supplied by the main offices of the S.S. Supreme Command. Ideologically and racially, its members were selected in conformity with S.S. standards.

I shall read a passage relating to the recruiting standards of the Waffen S.S. published in the S.S. Manual, “The Soldier Friend,” our Document 2825-PS, which appears on Page 7 of the English translation, first paragraph on Page 36, paragraph 2, of the the original. I quote:

“Today at last is the longed for day of the entrance examinations where the examiners and physicians decide whether or not the candidate is ideologically and physically qualified to do service in the Waffen S.S.

Everyone has acquainted himself with the comprehensive Manual for the Waffen S.S., of which the principal points are as follows:

I. Service in the Waffen S.S. counts as military service. Only volunteers are accepted.”

THE TRIBUNAL (MR. BIDDLE): What is the purpose of reading all this evidence? What has what you just read got to do with what you are presenting?

MAJOR FARR: Sir, I want to prove, as I said a moment ago, one thing first; that the Waffen S.S. is an integral, component part of the S.S. I want to establish that it is completely administered and controlled by the Supreme Command of the S.S. That is one thing.

The second thing I want to prove is this; that service in the Waffen S.S. is voluntary service, just as membership in the Allgemeine S.S. or Death Head Units is voluntary service. It is true that there were some instances towards the close of the war when a few men were conscripted into the Waffen S.S., but that was the exception and not the rule. In quoting from the Recruiting Standards of the Waffen S.S., appearing in this booklet which was published in 1942, and which indicates that at that time service in the Waffen S.S. was open only to volunteers, I think I am serving the purpose of proving one of the two points which I think ought to be established.

I want to read, if I may, one further paragraph from that translation. I shall read the paragraph indicating that service is voluntary. Now I want to read the third requirement, which shows that service was open only to persons who could meet the ideological and other standards of the S.S. as a whole.

If the Tribunal is satisfied on the point that service in the Waffen S.S. is essentially voluntary and that the Waffen S.S. is an integral part of the S.S., I do not want to impose further by reading further evidence.

THE PRESIDENT: I think the Tribunal is satisfied on both those points, up to the present time, that it is voluntary and is an integral part of the S.S.

MAJOR FARR: If the Court is satisfied on both those points, I shall not pursue, any further, the introduction of this particular evidence.

THE PRESIDENT: It may, as you say, be possible to show that there were some members conscripted into it at a later date, but we have not had that evidence yet.

MAJOR FARR: No, your Honour, you have not.

All I want to show is that it is, normally, voluntary, and that the Waffen S.S. is an integral part of the whole organisation. If the Court is completely satisfied on that point I shall proceed no further with the description of the Waffen S.S.

I shall pass on now, therefore, to a description of the “S.S. Totenkopf Verbaende”, the Death Head Units, which is the fourth component to be mentioned.

The origin and purpose of the Totenkopf Verbaende were succinctly described by d’Alquen in his book, “The S.S.”, our Document 2284-PS, and I shall read from Page 10 of the English translation, paragraph 5, a passage that appears on Page 20 of the original, paragraph 3.



Hitler and Himmler walk past a guard of honor of the SS Leibstandarte, 1938.

“The S.S. Death Head Units form one part of the barracked S.S They arose from volunteers of the General S.S. who were recruited for the guarding of concentration camps in 1933.

Their mission, apart from the indoctrination of the armed political soldier, is to guard enemies of the States who are held in concentration camps.

The S.S. Death Head Units enforce on their members 12 years’ service. They are composed mainly of men who have already fulfilled their duty to serve in the Wehrmacht. This time of service is counted in full.”

Since the Death Head Units - like the “S.S. Verfuegungstruppe” - were composed of well-trained professional soldiers, they were also a valuable nucleus for the Waffen S.S. The secret Hitler order of 17th August, 1938, Document 647-PS, which has already been introduced in evidence, provided for the tasks of the “S.S. Totenkopf Verbaende” in the event of mobilisation. The Toterikopf Verbaende were to be relieved from the duty of guarding concentration camps and transferred as a skeleton corps to the “S.S. Verfuegungstruppe”. I quote from that order, a passage found on Page 5 of the translation, paragraph 4, Page 9 of the original:

“5. Regulations in case of Mobilisation:-

The S.S. Totenkopf Verbaende form the skeleton corps for the reinforcement of the S.S. Verfuegungstruppe (police reinforcement) and will be replaced in the guarding of the concentration camps by members of the General S.S. who are over 45 years of age and have had military training.”

If I may point out to the Court, the purpose in offering that bit of evidence is to show that the foundation was laid for the “Allgemeine S.S.”, the General S.S., to take over the duties of guarding concentration camps after the war had started. The Totenkopf Verbaende were originally created for that purpose. When the war came they went into the Waffen S.S. and their duties were taken over by members of the General S.S.

The final component, which was specifically referred to in the Indictment, is the S.S. Police Regiments. I shall very shortly turn to the steps by which the S.S. assumed control over the entire Reich Police. Out of the police, special militarised forces were formed, originally known as S.S. Police Battalions and later expanded to S.S. Police Regiments.

I quote from Himmler's Posen speech, our Document 1919-PS, Page 3 of the translation, next to the last paragraph, Page 58 of the original.

"Now to deal briefly with the tasks of the regular uniformed police and the Sipo - they still cover the same field. I can see that great things have been achieved. We have formed roughly 30 police regiments from police reservists and former members of the police - police officials, as they used to be called. The average age in our police battalions is not lower than that of the security battalions of the Armed Forces. Their achievements are beyond all praise. In addition, we have formed Police Rifle Regiments by merging the police battalions of the 'savage peoples'. Thus, we did not leave these police battalions untouched but blended them in the ratio of about 1 to 3."

The results of this blend of militarised S.S. police and "savage peoples" will be seen in the evidence which I shall later introduce, relating to extermination actions, conducted by them in the Eastern territories - exterminations which were so eminently successful and so ruthlessly conducted that even Himmler could find no words adequate for their eulogy.

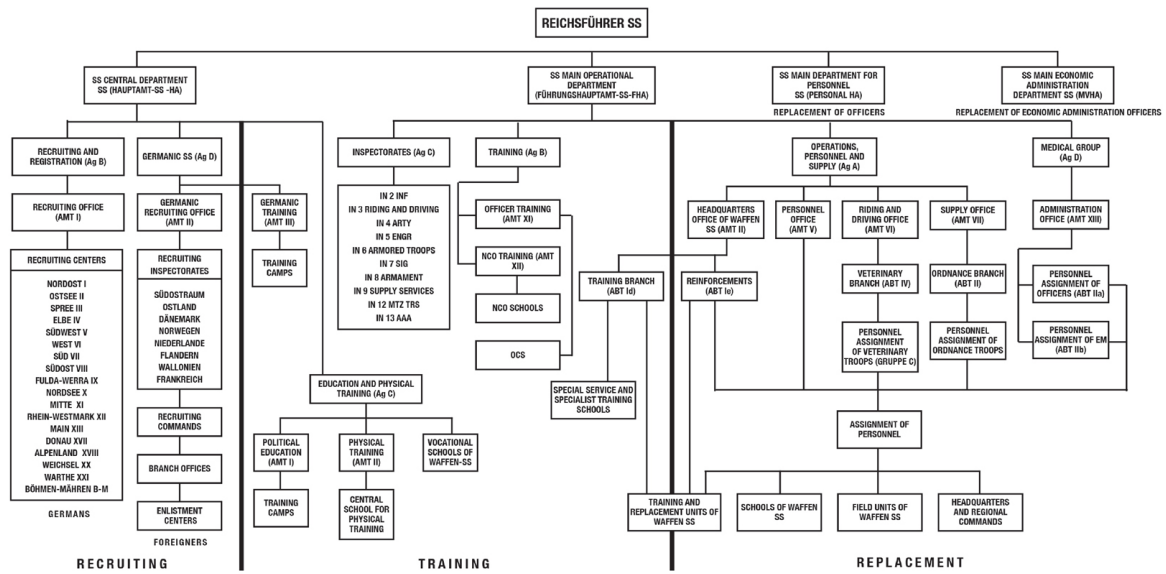
THE PRESIDENT: We will adjourn now for 10 minutes.

(A recess was taken.)

MAJOR FARR: Each of the various components which I have described played its part in carrying out one or more functions of the S.S. The personnel composing each differed. Some were part-time volunteers; others, professionals, enlisted for different periods of time. But every branch, every department, every member, was an integral part of the whole

organisation. Each performed his assigned role in the manifold tasks for which the organisation had been created. No better witness to this fact could be called upon than the Reichsfuehrer S.S., whose every effort was to insure the complete unity of the organisation. I quote his words, taken from his Posen speech, our Document 1919-PS, Exhibit USA 170 - I read from Page 104 of the original, fourth line from the top of the page, from the English translation, Page 8.

“It would be an evil day if the main offices, in performing. their tasks with the best, but mistaken intentions, made themselves independent by each having a downward chain of command. I really think that the day of my overthrow would be the end of the S.S. It must be, that this S.S. organisation with all its branches - the General S.S. which is the common basis of all of them, the Waffen S.S., the regular uniformed police, the Sipo, with the whole economic administration, schooling, ideological training, the whole question of kindred, is, even under the tenth Reichsfuehrer S.S., one block, one body, one Organisation.”



Control of SS recruiting, training, and replacement.

And continuing, about the middle of Page 8 of the translation, and at the bottom of Page 104 of the original speech:

“The regular uniformed police and Sipo, General S.S. and Waffen S.S. must now gradually be amalgamated too, just as this is and must be the case within the Waffen S.S. This applies to matters concerning filling of posts, recruiting, schooling, economic organisation, and medical services. I am always doing something towards this end, a bond is constantly being drawn around these actions of the whole to cause them to grow together. Alas, if these bonds should ever be loosened, then everything—you may be sure of this—would sink back into its old insignificance within one generation, and in a short space of time.”

I now turn to the underlying philosophy of the S.S., the principles by which its members were selected and the obligations imposed upon them. To understand this organisation, the theories upon which it was based must be kept clearly in mind. They furnish the key to all its activities. It is necessary, therefore, to consider them in some detail.

The fundamental principle of selection was what Himmler called that of Blood and Elite. The S.S. was to be the living embodiment of the Nazi doctrine of the superiority of Nordic blood - the carrying into effect of the Nazi conception of a master race. To put it in Himmler's own words, the S.S. was to be a “National Socialist Soldier Order of Nordic Men”. In describing to the Wehrmacht the reasons behind his emphasis on racial standards of selection and the manner in which they were carried out he said - and I quote from our Document 1992-A-PS, Page 1 of the translation, last paragraph, Page 138, paragraph 1 of the original:

“Accordingly, only good blood, blood which history has proved to be leading and creative and the foundation of every State and of all military activities, only Nordic blood, can be considered. I said to myself that, should I succeed in selecting from the German people for this organisation as many people as possible a majority of whom possess this desired blood,

in teaching them military discipline and, in time, the understanding of the value of blood and the entire ideology which results from it, then it will be possible actually to create such an elite organisation as would successfully hold its own in all cases of emergency.”

Further on, on Page 5 of the translation - I beg your pardon, on Page 4 of the translation, first line, Page 140 of the original, bottom paragraph, he says, referring to the method by which applicants were selected:

“They are very thoroughly examined and checked. Of 100 men we can use on the average 10 or 15, no more. We ask for the political record of his parents, brothers and sisters, the record of his ancestry as far back as 1750, and naturally the physical examination and his record from the Hitler Youth. Further, we ask for a eugenic record showing that no hereditary disease exists in his parents or in his family.”

THE PRESIDENT: (interposing) I do not seem to get the point of this. We have already been told that the S.S. was a Corps d’Elite, and all this is showing the details of the choice.

MAJOR FARR: That is correct; it is showing the details of the choice.

THE PRESIDENT: But that has nothing to do with its being a criminal organisation, has it?

MAJOR FARR: I think it has, your Honour. I want to make again, if I may, two points. The very essence of this organisation was that of race. Its racial standards of selection had two purposes: One, to make it an organisation which would be an aristocracy not only for Germany, but which would be in a position to dominate all of Europe. For that purpose, not only were strict racial standards imposed for selection, but a great drive was made to perpetuate the S.S. stock, to build up a group of men who would be in a position to take over Europe when it was conquered.

There was nothing questionable about that aim. Himmler explicitly said time and time again: “What we are after is to make ourselves the super-class which will be able to dominate Europe for centuries.” That was one of

the fundamental purposes of the S.S., and it was a purpose which was not kept by Himmler to himself, but a purpose which was explained and publicly announced again and again.

THE PRESIDENT: You have not yet shown us where it was announced, have you?

MAJOR FARR: I have not, Sir, and I am coming to that very shortly, but I wanted first to show your Honour what the racial basis of selection was. That is one aspect of the racial selective process.

The second was this: The negative side of the racialism. Not only did Himmler intend to build up an elite which would be able to take over Europe, but he indoctrinated that elite with hatred for all “inferior “—to use his words—races.

Now, I think unless it is clearly understood that that is the basis of the S.S., we cannot understand the organisation. I am quite prepared, if the Tribunal desires, not to go further into a discussion of the detail of the process of selection. I do think it important that I quote to the Tribunal the publicly announced basis for selection.

With the Tribunal’s permission then, I would like to quote one passage from the Organisation Book for the Nazi Party, which explains the racial basis on which the S.S. was founded. That is our Document 2640-PS, which has already been introduced in evidence as Exhibit USA 323 - I quote from Page V7 of the German text and from Page 1 of the translation, fourth paragraph, entitled “Selection of Members.” And I quote this because this is not a hidden pronouncement. This is what the official Nazi Party publication said the S. S. was:

“Selection of Members.

For the fulfilment of these missions a homogeneous, firmly welded fighting force has been created bound by ideological oaths, whose fighters are selected out of the best Aryan humanity.

The conception of the value of the blood and soil serves as directive for the selection for the S.S. Every S.S. man must be deeply imbued with the sense and essence of the National Socialist Movement. He will be ideologically and physically trained so that he can be employed individually or in groups in the decisive battle for the National Socialist ideology.

Only the best and thoroughbred Germans are suited for commitment in this battle. Therefore it is necessary that an uninterrupted selection is maintained within the ranks of the S.S., first superficially, then more and more thoroughly.”

Now, I would like to proceed to quote a paragraph on the same page, three paragraphs down, with respect to obedience. It appears on Page 418 of the original, second paragraph. It runs:

“Obedience is unconditionally demanded. It arises from the conviction that the National Socialist ideology must reign. He who possesses it and passionately supports it, submits himself voluntarily to the compulsion of obedience. Therefore, the S.S. man is prepared to carry out blindly every order which comes from the Fuehrer or is given by one of his superiors, even if it demands the greatest sacrifice of himself.”

There are stated the two fundamental principles of the S.S. (i) Racial selection; (2) Blind obedience.

Now, let me state what Himmler conceived that this organisation was to be used for. I quote from his address to the officers of the S.S. Leibstandarte “Adolf Hitler” on the “ Day of Metz,” our Document 1918-PS, Exhibit USA 304. I quote from Page 12 of the original document, the middle of the page; from the translation Page 3, last paragraph. I will begin the translation with the third sentence of that paragraph:

“The ultimate aim for these 11 years during which I have been the Reichsfuehrer S.S. has been invariably the same. To create an order of good blood which is able to serve Germany, which unfailingly and without sparing itself can be made use of because the greatest losses can do no harm

to the vitality of this order, the vitality of these men, because they will always be replaced. To create an order which will spread the idea of Nordic blood so far that we will attract all Nordic blood in the world, take away the blood from our adversaries, absorb it so that never again, looking at it from the viewpoint of the grand policy, Nordic blood in great quantities and to an extent worth mentioning will fight against us. We must get it and the others cannot have it. We never gave up the ideas and the aim, conceived so many years ago. Everything we have done has taken us some distance further on the way. Everything we are going to do will lead us further on the way.”



The SS Leibstandarte "Adolf Hitler", 1939.

Now, one further quotation from the same document, which shows very explicitly why there was the building up of this order of Nordic blood, appears on Page 3 of the translation, the same document from which I have just quoted, about the middle of the first paragraph. It appears on Page 11 of the original speech, about the middle of the page. That is the speech to the officers of the S.S. Leibstandarte "Adolf Hitler."

"Please understand we would not be able to hold the great Germanic Reich which is about to take shape. I am convinced that we can hold it, but we have to prepare for that. If once we have not enough sons, those who come after us will have to become cowards. A nation which has an average of four sons per family can venture a war; if two of them die, two transmit the name. The leadership of a nation having one or two sons per family will have to be faint-hearted in any decision, on account of their own experience because they will have to tell themselves: We cannot afford it. Look at France, which is the best example. France had to accept from us a dictate."

Domination of Europe through a Nazi elite required more, however, than a positive side of racialism.

THE TRIBUNAL (Mr. BIDDLE): Is that one of the crimes you allege, domination of Europe through an elite?

MAJOR FARR: One of the crimes alleged is a conspiracy to dominate Europe, preparation for aggressive war, leading to the ultimate colonisation of Europe for the benefit of the conspirators. One of the instruments, we submit, used for carrying out that policy, was the S.S. The conspirators began, at the very beginning, the creation of the S.S., to build it up so that it would be the elite through which Germany would be able to dominate and rule the conquered territories.

We think that this conception of the S.S. has played a vital part in the conspiracy. It has bearing on the whole programme of the conspirators. Now, this certainly, in itself -

THE PRESIDENT: Yes, but, Major Farr, what you have to show is not the criminality of the people who used the weapon; the criminality of the people who composed the weapon.

MAJOR FARR: I think I have to show two things, certainly the criminality of the persons who composed the weapons, but it seems to me I must also show that that weapon played a part in the conspiracy because the Indictment alleges -

THE PRESIDENT: I should have thought you had shown that over and over again, that the S.S. were a part of the weapon. If there was a criminal conspiracy, then the S.S. were one of the weapons which were used by the conspirators. But what you have got to show in this part of the case is that the persons who formed that weapon were criminal and knew of the criminal objects of the S.S.

MAJOR FARR: I quite agree I have to show that. I suppose I have to show, before showing that the persons involved knew of the criminal aims of the Organisation, what those criminal aims were. I was simply attempting to show the Tribunal that one of those aims which I submit as criminal was a plan to dominate Europe, and that the S.S. was one of the means by which that was to be done.

Now, this is just one aspect of the S.S. criminality. I am quite ready not to proceed any further with the point if the Court already has the point, and thinks that the evidence of that aspect of its criminality is sufficient. I certainly do not want to labour the point too hard.

I will now proceed further with the point as to the building up of the S.S. as a racial elite to take over; but I do think one other thing is important, and that is the negative side of that racialism: the hatred of other races. Himmler made some very striking points along that line as to what the S.S. was to be in relation to it. I quote from his Posen speech, that is, our document 1919-PS. The passage in question appears on Page 23 of the

original speech, middle of the page, and will be found on Page 1 of the English translation, third paragraph.

I quote:

“One basic principle must be the absolute rule for the S.S. man. We must be honest, decent, loyal, and comradely to members of our own blood and to nobody else. What happens to a Russian, to a Czech, does not interest me in the slightest.”

The next few sentences from that same paragraph have already been read into evidence, and I shall not repeat them. But I do want to quote, in the same paragraph, the conclusion that Himmler draws from what he just said. This sentence is about seven lines from the bottom of the paragraph, beginning:-

“That is what I want to instill into this S.S. and what I believe I have instilled in them as - one of the most sacred laws of the future.”

Now these principles - that is, the conception of being an elite which was to take over Europe, and the conception of hatred toward inferior races, which was instilled in the S.S. - these were principles which were publicly reiterated over and over again so that the newest recruit was thoroughly steeped in them.

I quote from Himmler’s Kharkov speech, which appears in the same document 1919-PS.

THE TRIBUNAL (Mr. BIDDLE): Can you not just give us the meaning of the speech without quoting from it; can you just refer to it?

MAJOR FARR: I will be very glad to do that, if the Court will take judicial notice of it. I will refer you to the passage I have in mind. The passage in question appears on Page 14 of the translation, about fifteen lines from the bottom of the page; it appears on Page 17 of the original, at about the middle of the page.

In that passage, after having talked at great length about the racial struggle, Himmler tells his commanding officers—and he is making this

speech to the commanding officers of three divisions of the Waffen S.S.— he tells his officers that the thing which he wants so thoroughly instilled into every recruit in the Organisation, so that he becomes saturated with it, is the necessity of the S.S. standing firm and carrying on the racial struggle without mercy.

On the same point one further quotation - if the Tribunal will bear with me - and I think this is important because this, again, is a public quotation, found in the Organisation Book of the Party. That is our document 2640-PS. It is a very short passage, appearing on Page V8 of the original, and Page 1 of the English translation, the third paragraph from the end of the page in the translation:

“He openly and unrelentingly fights the most dangerous enemies of the State: Jews, Freemasons, Jesuits, and political clergymen.”

Now these were the fundamental principles of the S.S.: racial superiority and blind obedience. A necessary corollary of these two principles was ruthlessness. The evidence that we will introduce on these activities will show how successfully the S.S. learned the lesson it was taught.

The S.S. had to, and did, develop a reputation for terror which was carefully cultivated. Himmler himself publicly attested it as early as 1936 in his pamphlet, “The S.S. as an Anti-Bolshevist Fighting Organisation “ our document 1851-PS, which has already been introduced into evidence as exhibit USA 440. I quote two sentences which appear at page 29 of the original pamphlet, and on page 4 of the translation, the first two sentences: “I know that there are some people in Germany who become sick when they see these black coats. We understand the reason for this and do not expect that we shall be loved by too many.”

The role which the S.S. was required to play demanded that it remain constantly the essence of Nazism and that its elite quality should never be diluted.

As evidence that even in 1943 the S.S. standards were still being maintained, I offer in evidence a letter written to the defendant Kaltenbrunner by Himmler. This letter is our Document 2768-PS. It is a letter from the Reichsfuehrer S.S., written at his field command post and bearing the date 24th April, 1943, I offer it as Exhibit USA 447. I quote from the first paragraph of that letter:

“Referring again to the matter which we discussed some time ago that is, the admission of Sipo officials into the S.S. - I wish to clarify again: I want an admission only if the following conditions are fulfilled:

- I. If the man applies freely and voluntarily.
2. If, by applying strict and peace-time standards, the applicant fits racially and ideologically into the S.S., guarantees according to the number of his children a really healthy S.S. stock, and is neither in, degenerate, nor worthless.”

Then, continuing with the third paragraph:

“I beg not only that you will act accordingly in the future, but especially also that numerous admissions into the ranks of the S.S. in the past be re-examined and revised according to these instructions.”

Now I have appended this, to indicate to the Tribunal the normal manner in which a man became a member of the S.S. This is discussed by Himmler in our Document 1992-A-PS, at Page 142 of the original, and Page 5 of the translation. If the Court thinks that it can take judicial notice of that passage, I shall not trouble to read it. What it does is to describe how a young man comes into the S.S. normally, at the age of 18, serves an apprenticeship and receives his instructions in S.S. ideology, takes the S.S. oath, receives the S.S. dagger, and how long he remains in the General S.S. I will not trouble to read that paragraph, since I assume that the Court will take judicial notice of it.

I do think it may be worth quoting the very brief oath which the S.S. man takes. That oath is quoted in the Waffen S.S. recruiting pamphlet,

entitled, "The S.S. Calls You," our Document 3429-PS, which I offer in evidence as Exhibit USA 446. The oath appears on Page 18 of that pamphlet, and on Page 2 of the translation, in the middle of the page. I quote the oath

The Oath of the S.S. Man:

"I swear to you, Adolf Hitler, as Fuehrer and Reichschancellor, loyalty and bravery, I vow to you, and to those you have named to command me, obedience unto death, so help me God."

I turn now to a consideration of the activities of the S.S., the manner in which it carried out the purposes of the conspirators and performed its function of guarding the internal security of the Nazi regime. The proof of the elite Nazi quality and thorough reliability of the S.S.—the test by which it won its spurs—occurred on the 30th of June, 1934, when it participated in the purge of the S.A. and other opponents or potential opponents of the Nazi regime. That was the first real occasion for the use of this specialised organisation, which could operate with the blessing of the Nazi State, but outside the law.

I offer in evidence an affidavit by the defendant Wilhelm Frick, signed and sworn to herein Nuremberg on the 19th of November, 1945 - It is our Document 2950-PS - I offer it as Exhibit USA 448. I shall quote a portion of that affidavit, beginning about the middle of the first paragraph of the affidavit, the tenth line in the original.

"Many people were killed - I do not know how many - who actually did not have anything to do with the 'putsch.' People who just were not liked very well, as for instance, Schleicher, the former Reich Chancellor, were killed. Schleicher's wife was also killed, as was Gregor Strasser, who had been the Reich Organisation Leader and second man in the Party after Hitler. Strasser, at the time he was murdered, was not active in political affairs any more. However, he had separated himself from the Fuehrer in November or

December of 1932. The S.S. was used by Himmler for the execution of these orders to suppress the 'putsch'."

It was in recognition of its services in this respect that the S.S. was raised to the status of a component of the Party equal in rank to the S.A., and other similar ranking. I ask the Court to take judicial notice of a passage which appears on Page 1 of the Völkischer Beobachter of 26th July, 1934 - it is our Document 1857-PS, Exhibit USA 412. I shall read the translation of that passage, which is very brief:

"The Reich Press Office announces the following Order of the Fuehrer. In consideration of the greatly meritorious service of the S.S., especially in connection with the events of 30th June, 1934, I raise it to the standing of an independent Organisation within the N.S.D.A.P. The Reichsfuehrer S.S., like the Chief of Staff, is, therefore, directly subordinate to the highest S.A. leader."

By its action on 30th June, the S.S. proved itself. It was, therefore, the type of Organisation which the conspirators wanted for the first necessary step in their programme, the acquisition of control over the police, because one of the first steps essential to the security of any regime is control of the police. The aim of the conspirators was to fuse the S.S. and the police, to merge them into a single, unified repressive force.

I turn now to the consideration of the development whereby the S.S. and the police became intermingled. Shortly after the seizure of power the conspirators began to develop, as a part of the State machinery, secret political police forces, originating in Prussia in the Gestapo established by decree of the defendant Goering in 1933, and this development will be dealt with in the case against the Gestapo. By 1934, the Reichsfuehrer S.S. had become the chief of these secret political police forces in all the States of Germany except Prussia, and deputy chief of the Prussian Gestapo. In that capacity he infiltrated these forces with members of the S.S. until a virtual identity of membership of the S.S. and the Gestapo was achieved.

On 17th June, 1936, by the Decree on the Establishment of a Chief of the German Police, published in the Reichsgesetzblatt for 1936, Part 1, Pages 487 and 488, our Document 2073-PS, of which I assume the Court will take judicial notice, the new post of Chief of the German Police was created in the Ministry of the Interior. Under the terms of the decree Himmler was appointed to this post with the title of “Reichsfuehrer S.S., and Chief of the German Police in the Ministry of the Interior.”



SS-Brigadeführer Reinhard Heydrich, head of the Bavarian police and SD, in Munich, 1934.

The combination of these two positions, that of leader of the S.S., and head of all the police forces in the Reich, was no accident, but was intended to establish a permanent relation between the two bodies, and not a mere 44 transitory fusion of personnel.” The significance of this combination of these two positions was referred to by Hitler in his secret order of 17th August, 1938, on the organisation and mobilisation of the S.S., our Document 647- PS, which I introduce in evidence as Exhibit USA 443, from which I will now quote just the preamble, which will be found on the first page of our Document 647-PS, and at the beginning of the original order. I quote:

“By means of the nomination of the Reichsfuehrer S.S. and Chief of the German Police in the Ministry of the Interior on June 17th, 1936, (Reichsgesetzblatt I, Page 487), I have created the basis for the unification and reorganisation of the German Police. With this step, the Schutzstaffeln of the N.S.D.A.P., which have been under the Reichsfuehrer S.S. and Chief of the German Police up to now, have entered into close connection with the duties of the German Police.”

Upon his appointment, Himmler immediately proceeded to reorganise the entire police force, designating two separate branches. (1) The regular uniformed police force (Ordnungspolizei or Orpo as they were called by their abbreviated title); and (2) the so-called Security Police, or as they became to be known by their abbreviated title Sipo. The Security Police was composed of all the Criminal Police in the Reich and all the Gestapo. This reorganisation was achieved by the decree assigning functions to the Office of the Chief of the German Police, published in the Reichsministerialblatt for 1936, Pages 946-948, our Document 1551-PS - of that decree I assume the Court will take judicial notice.

To be head of the Sipo, that is, of the Criminal Police and the Gestapo, Himmler appointed Reinhard Heydrich, who was at that time the Chief of the S.D., the S.S. Intelligence Agency to which I have already referred.

Thus, through Himmler's dual capacity as Reichsfuehrer S.S. and as Chief of the German Police, and through Heydrich's dual capacity as head of the S.D. and of the Security Police, a unified personal command of the S.S. and Security Police Forces was achieved.

But further steps towards unification were taken. In 1939 the Security Police and the S.D., which up to that time had been only an agency of the S.S., were both combined in a single department: the Reich Security Main Office, commonly referred to as R.S.H.A. An important point to be observed is this: This newly created department, R.S.H.A., was not a mere department of the Government. It was a dual thing. It was simultaneously an agency of the Government, organisationally placed in the Ministry of the Interior, and, at the same time, one of the principal departments of the S.S., organisationally placed in the Supreme Command of the S.S. This division in the S.S. is shown by the chart before you, R.S.H.A. being indicated by the sixth block from the left of the chart. But it was not merely the Gestapo and Criminal Police which came under the sway of the S.S. The regular uniformed police as well were affected. Like the R.S.H.A., the department of the Regular Police, the Ordnungspolizei, was also not merely a department in the Ministry of the Interior, but also simultaneously in the Supreme Command of the S.S. Its position in the S.S. is indicated by the seventh block on the chart, on the left.

Now this unity of command between S.S. and Police was not a mere matter of the highest headquarters. It extended down to the operating level. The Court will observe from the chart that the Higher S.S. and Police Leader in each region, who was directly subordinate to Himmler, had under his command both the Security Police, Sipo, and the regular uniformed police, Ordnungspolizei; and also that these forces, Sipo and Orpo, were not only under the command of the Higher S.S. and the Police Leader, but as indicated by the blue line, were also under the command of the R.S.H.A., and the Department of the Ordnungspolizei and the S.S. Thus, you have

organisationally, a unity of command over the S.S. and the Police. This organisation was not the only way by which unity was achieved. Unity of personnel was also achieved. Vacancies occurring in the police forces were filled by S.S. members. Police officials who were in the force were able to join the S.S., and schools were operated by the S.S. for the police, as well as for the S.S. officials.

These measures are described in Himmler's article "Organisation and Obligations of the S.S. and the Police," our Document 1992-A-PS. They are also described in an authoritative book on the Police, entitled, "The German Police," the book published in 1940, written by Dr. Werner Best, Ministerial Director in the Ministry of the Interior, and a department head in the Security Police. It bears on its fly-leaf the imprimatur of the Nazi Party, and the book is listed in the official list of National Socialist bibliography. Chapter 7 from that book is our Document 1852-PS. I offer this book in evidence as Exhibit USA 449.

Through this unity of organisation and personnel, the S.S. and the Police became identified in structure and in activity. The resulting situation was described in Best's book, which I have just offered in evidence, our Document 1852-PS, as follows. I quote from Page 7 of that document, paragraph 5; from the original book, Page 95, paragraph 3:

"Thus the S.S. and the Police form one unit, both in their structure and in their activity, although their individual organisations have not lost their true individuality and their position in the larger units of the Party and State administration which are concerned with other points of view."

Through the Police, the S.S. was in a position to carry out a large part of the functions assigned to it. The working partnership between the Gestapo, the Criminal Police and the S.D. under the direction of the Reichsfuehrer S.S. resulted in the end in repressive and unrestrained police activity. That will be dealt with in the case against the Gestapo. In considering that evidence, the Tribunal will bear in mind that the Police activities there shown were

one aspect of S.S. functions, one part of the whole criminal S.S. scheme. I shall not, therefore, consider here evidence relating strictly to the police functions of the S.S.

Control over the police was not enough. Potential sources of opposition could be tracked down by the S.D. Suspects could be seized by the Criminal Police and the Gestapo, but these means alone would not assure the complete suppression of all opponents and potential opponents of the regime. For this purpose, concentration camps were invented. The evidence already presented to the Tribunal has shown what the concentration camp system involved, and the final result of that system was graphically illustrated in the moving pictures shown about 10 days ago. The responsibility of the S.S. in that system is a topic to which I now turn.

The first requirement for the camps was guard and administrative personnel. Part-time volunteer members of the Allgemeine S.S. were originally utilised as guards; but part-time volunteers could not adequately serve the needs of the extensive, long-range programme that was planned. So beginning in 1933 full-time professional guards units, the Death Head Units which I have already described, were organised. During the war, members of the General S.S. resumed the function of guarding camps, which they had initially undertaken when the camps were created. The Tribunal will recall the provisions of the Hitler order which I read a few moments ago, directing the replacement of Death Head Units by General S.S. members in the event of mobilisation. It is unnecessary to repeat the evidence of wholesale brutality, torture and murder committed by S.S. guards. They were not the sporadic crimes committed by irresponsible individuals, but a part of a definite and calculated policy, a policy necessarily resulting from S.S. philosophy, a policy which was carried out from the initial creation of the camps.

Himmler bluntly stated the S.S. view as to the inmates of the camps in his article, "Organisation and Obligations of the S.S. and the Police,"

Exhibit USA 439, our Document 1992-A-PS. I quote from Page 7 of the translation, last paragraph; from Page 148 of the original, third paragraph.

THE PRESIDENT: Did you say 439?

MAJOR FARR: It was Exhibit 439 - it is our Document 1992-A-PS. I quote from Page 7 of the translation, last paragraph:

“It would be extremely instructive for everyone - some members of the Wehrmacht had already been able to do so - to inspect such a concentration camp. Once they have seen it, they are convinced of the fact that no one has been sent there unjustly; that it is the offal of criminals and freaks. No better demonstration of the laws of inheritance and race, as set forth by Doctor Guett, exists than such a concentration camp. There you can find people with hydrocephalus, people who are cross-eyed, deformed, half-Jewish, and a number of racially inferior products. All that is assembled there. Of course, we distinguish between those inmates who are only there for a few months for the purpose of education, and those who are to stay for a very long time. On the whole, education consists of discipline, never of any kind of instruction on an ideological basis, for the prisoners have, for the most part, slave-like souls; and only very few people of real character can be found there.”

Then, omitting the next two sentences, he continues with this striking remark:

“The discipline thus means order. The order begins with these people living in clean barracks. Such a thing can really only be accomplished by us Germans, hardly another nation would be as human as we are. The laundry is frequently changed. The people are taught to wash themselves twice daily, and to use a toothbrush, a thing with which most of them have been unfamiliar.”

Having heard the evidence and seen the pictures as to conditions in concentration camps, this Tribunal can appreciate how grim and savage that callous jest was. He made no such pretence in his speech to his own

Grupperifuehrers at Posen, our Document 1919-PS, Exhibit USA 170. I quote from Page 43 of the original, last paragraph; from Page 2 of the translation, the first full paragraph. That is 1919-PS.

“I do not believe the Communists could attempt any action, for their leading elements, like most criminals, are in our concentration camps. And here I must say this: that we shall be able to see after the war what a blessing it was for Germany that, in spite of all the silly talk about humanitarianism, we imprisoned all this criminal substratum of the German people in concentration camps. I will answer for that.”

But he is not here to answer.

Certainly there was no “silly humanitarianism” in the manner in which S.S. men performed their tasks. Just as an illustration, I should like to examine their conduct, not in 1944 or 1945, but in 1933 - I have four reports, relating to the deaths of four different inmates of the concentration camp Dachau between 16th and 27th May, 1933. Each report is signed by the Public Prosecutor of the District Court in Munich and is addressed to the Public Prosecutor of the Supreme Court in Munich. These four reports show that during that two-week period in 1933, at the time when the concentration camps had barely started, S.S. men had murdered - a different guard each time - an inmate of the camp.

Now, I do not want to take the time of the Tribunal to read that evidence if it feels that it is a minor point. The significance of it is this: It is just an illustration of the sort of thing that happened in the concentration camps at the earliest possible date, in 1933. I am prepared to offer those four reports in evidence and to quote from them, if the Tribunal thinks that the point is not too insignificant.

THE PRESIDENT: Where are they?

MAJOR FARR: I have them here. I will offer them in evidence. The first is our Document 641-PS. It is a report dated 1st June, 1933, and relates to the death of Dr. Alfred Strauss, a prisoner in protective custody, in

Dachau. I offer it in evidence as Exhibit USA 450. I shall read a few paragraphs from that report, beginning with paragraph one:

“On 24th May, 1933, the 30-year-old, single, attorney-at-law, Dr. Alfred Strauss from Munich, who was in the concentration camp Dachau as a prisoner under protective custody, was killed by two pistol shots from S.S. man Johann Kantschuster who escorted him on a walk prescribed to him by the camp doctor, outside the fence part of the camp.

Kantschuster gives the following report: ‘He himself had to urinate; Strauss proceeded on his way. Suddenly Strauss broke away towards the bushes located at a distance of about 6 m. from the line. When he (Kantschuster) noticed it, he fired two shots at the fugitive from a distance of about 8 m.; whereupon Strauss collapsed dead.’

On the same day, 24th May, 1933, a judicial inspection of the locality took place. The corpse of Strauss was lying at the edge of the wood. Leather slippers were on his feet. He wore a sock on one foot, while the other foot was bare, obviously because of an injury to it. Subsequently an autopsy was performed. Two bullets had entered the back of the head. Besides, the body showed several black and blue spots and also open wounds.”

Passing now to the last paragraph of that report:

“I have charged Kantschuster today with murder and have made application for the opening and execution of a judicial preliminary investigation as well as for the issuance of a warrant of arrest against him.”

That is the first of the four reports. The significance is that you have four murders one after the other, committed within a short space of time, and in each instance, an official report by the camp commander or the guard as to the cause of death, which was completely disproved by the facts.

The second report, a report dated 1st June, 1933, relates to the death of Leonhard Hausmann, another prisoner in Dachau. It is our Document 642-PS, and I offer it in evidence as Exhibit USA 451.

THE PRESIDENT: I do not think you need read the details.

MAJOR FARR: I will offer it without reading it.

The third report which I shall offer is dated 22nd May, 1933. It relates to the death of Louis Schloss, an inmate of Dachau, and is our Document 644-PS. I offer it in evidence as Exhibit USA 452.

The fourth document, our Document 645-PS, dated 1st June, 1933, relates to the death of Sebastian Nefzger, another Dachau prisoner. I offer this in evidence as Exhibit USA 453.

These four murders, committed within the short space of two weeks in the spring of 1933, each by a different S.S. guard, are merely examples of S.S. activities in the camps at that very early date. Many similar examples from that period and later periods could be produced.

Indeed, that sort of thing was officially encouraged. I call the Tribunal's attention to the Disciplinary Regulation for the Dachau Concentration Camp, our Document 778-PS, which has already been introduced in evidence as Exhibit USA 247 - I want to read the fourth paragraph of the introduction to those rules, a passage which was not read when the document was originally introduced. The fourth paragraph on the first page of the translation and of the original is as follows:

“Tolerance means weakness. In the light of this conception, punishment will be mercilessly handed out whenever the interests of the Fatherland warrant it. The fellow countryman who is decent but misled will never be affected by these regulations. But let it be a warning to the agitating politicians and intellectuals, regardless of which kind: Be on guard not to be caught, for otherwise it will be your neck and you will be hoist with your own petard.”

Those regulations were issued in 1933 by S.S. - Fuehrer Eich, who, it is to be noted, was the Commandant of the S.S.-Totenkopfverbände.

Furnishing guard and administrative personnel was not the only function of the S.S. with relation to the camps. The entire internal management of the camps, including the use of prisoners, their housing,

clothing, sanitary conditions, the determination of their very right to live and the disposal of their remains, was controlled by the S.S. Such management was first vested in the Leader of the S.S. Death Head Units who had the title of Inspector of the Concentration Camps. This official was originally in the S.S. Hauptamt - represented on the chart by the second box from the left. During the course of the war - in March 1942 - Control of concentration camps was transferred to another of the departments of the S.S. Supreme Command - the S.S. Economic and Administration Department - commonly known as W.V.H.A. That department is indicated on the chart by the third box from the left. The Court will note under the top box the break down into "Concentration Camps" which in turn is broken down into "Prison, Labour, Medical and Administration."

That change was announced in a letter to Himmler dated 30th April, 1942, from the Chief of W.V.H.A. The letter is our Document R-129 and it has already been received in evidence as Exhibit USA 217. I shall not quote from that letter now.

This shift of control to W.N.H.A., the economic department of the S.S., coincided with a change in the basic purposes of the concentration camps. Political and security reasons, which previously had been the ground for confinement, were abandoned, and the camps were frankly made to serve the slave-labour programme. The Tribunal will recall the evidence relating to that programme which was presented last week by Mr. Dodd. I shall not deal at any length with the matter again, except to summarise the principal facts bearing on S.S. responsibility which were demonstrated by that evidence.

To satisfy the increased demands for manpower it was not enough to work the inmates of the camp harder. More inmates had to be obtained. The S.S., through its police arm, was prepared to satisfy this demand, as through the W.N.H.A. it was prepared to work those who were already in the camp.

THE PRESIDENT: Have you got any figures you can give the Tribunal as to the total numbers in the S.S. and the total numbers who were employed on concentration camps? If you gave us the total number of the S.S. and the total number employed in concentration camps, we should see what the proportion was.

MAJOR FARR: I think I can only give you the following figures. I earlier quoted some figures from d'Alquen in his book published in 1939, in which he said that the total strength of the General S.S. was about 240,000. That is the General S.S., which was not at that time engaged in the guarding of concentration camps. The Totenkopfverbände, the Death Head Units, at that time, consisted of some three or four regiments at the most. They were the guards; so that of the personnel who were employed in actual guard duty there were, in 1939, about three or four regiments.

The Court will recall that after the war had started, the Totenkopfverbände were no longer employed in that duty and that the members of the General S.S. took it up. How many were employed is something that is difficult to estimate. The concentration camp programme was constantly expanding and, of course, as more camps were added more personnel was needed. I cannot give the Tribunal the figures of the number of persons involved in guarding the camps, but one of the matters I think significant is this: we have not only guards, we have administrative personnel, we have the whole of the W.N.H.A. which, as I want to show by evidence, had complete control of the management of the concentration camps. The members of the staff office, W.N.H.A., were derived from the General S.S.; so you have on the one hand the guard personnel, Death Head Units, up to 1939, and then you have after 1939 more guards from the Allgemeine S.S. You have, after 1939, more guards from the General S.S. and also administrative personnel from W.V.H.A.

I have no figures showing how many persons were engaged in one or another phase of the concentration camp activities. You have, of course, the

S.D. and Security Police involved in it, in so far as they went out and seized victims. You have W.V.H.A., the entire administrative personnel of that section involved in it, in so far as they handled, administrative matters.

Some conception of the number of persons who must have been engaged in the activity may be gained from noting the number of persons involved in a camp. I have a document, a report by W.V.H.A., in August 1944, which reports the number of prisoners who were then on hand in the camps and the recent arrivals who were expected. That document is our Document 1166- PS, which I will now offer in evidence as Exhibit USA 458.

THE PRESIDENT: I do not think we had better go into that to-night. What will you be dealing with tomorrow?

MAJOR FARR: Tomorrow, Sir, I intend to offer evidence showing how. W.V.H.A. and other S.S. personnel were involved in the control of every phase of the concentration camp programme. That is the first thing. The second thing is to point out the role that the S.S. played in the persecution of the Jews and their extermination, not with a view to repeating the substantive evidence to show that such acts took place, but to show how many components, how many parts of the organisation were involved in that programme.

Then I shall consider the role of the S.S. with respect to Preparations for Aggressive War and the Crimes Against Peace—a relatively brief discussion—and then pass on to the role that the S.S. played in War Crimes and Crimes Against Humanity, set out in Counts 3 and 4 of the Indictment, and finally, the role of the S.S. in the colonisation programme.

THE PRESIDENT: Colonisation?

MAJOR FARR: That may be an unfortunate word. Perhaps I should have said Germanisation programme, a programme of resettlement, evacuation, colonisation, and exploitation of the conquered territories.

Those, I think, are the four main functions of the S.S. which remain to be considered, and I shall endeavour not to go again into substantive crimes which have already been shown to the Tribunal, but to try to show how almost every department—in fact, every department of the S.S. and every component—was involved in one or more, and mostly more, of these crimes.

THE PRESIDENT: The Tribunal hopes that you will be able to confine yourself to the reading of evidence which is not cumulative.

MAJOR FARR: I have that in mind and I do not intend to do anything more than to show the figures and components of the S.S. which were involved in various programmes.

THE PRESIDENT: Very well.

(The Tribunal adjourned until 1000 hours on 20th December, 1945)

THURSDAY, 20TH DECEMBER, 1945

MAJOR FARR: May it please the Tribunal, when the Tribunal rose yesterday, we were discussing the number of persons who might be involved in the concentration camp programme with which the S.S. was concerned nothing better illustrates the integrated character of the whole organisation than that programme.

W.V.H.A., one of the departments of the Supreme Command, handled the administration and control of that camp programme and dealt with the victims once they were in the camp. They were assisted by the Death Head Units, who furnished the guard personnel for the camps, and subsequently by the “Allgemeine S.S.,” which took over guard duties during the war.

R.S.H.A. - the police arm of the S.S. - played a part in the concentration camp programme, because through it the victims were apprehended and taken to the camps. Thus the S.D. appears in the picture, the personal staff,

the first department of the Supreme Command, the top office so to speak of the whole organisation, and naturally had much to do with the work of all subordinate departments.

Thus when the question is asked how many persons in the S.S. had something to do with the concentration camp programme, it is a question which I think it is impossible to answer. You might point out how many persons were involved in the Death Head Units, who originally furnished the guard details. You might estimate how many persons were in the "Allgemeine S. S.," but to say just what percentage of the whole organisation was involved in that programme is something which I find myself unable to do.

I had just pointed out -

THE PRESIDENT: Can you say that one or other branch of the S.S. provided the whole of the staff of the concentration camps?

MAJOR FARR: By the staff, I take it, you mean guards at the camp, the guard personnel. You cannot do that. For example, the Death Head Units originally started off as being the units which furnished all the guard personnel. Subsequently, their task was taken over by members of the "Allgemeine S.S."

THE PRESIDENT: Those are both branches of the S.S.?

MAJOR FARR: Both are branches, yes. Now with respect to the camp commandants, for instance, normally all high ranking officers in the S.S. were members of the "Allgemeine S.S.," so doubtless such personnel would be drawn from that branch. It is certainly not impossible that some members of the "Waffen S.S." may have been called on to act as guards in certain camps. I do not think you can say that there is no component of the S.S. which may not have had some of its personnel involved in the programme.

THE PRESIDENT: That was not exactly what I meant. What I meant was: could you say that one or other branches of the S.S. furnished the whole staff of the concentration camps?

MAJOR FARR: I do not think I can say that. I think I could say this -

THE PRESIDENT: What other organisation was it that furnished a part of the staff of the concentration camps?

MAJOR FARR: You mean an organisation other than the S.S.

THE PRESIDENT: Yes.

MAJOR FARR: I know of none.

THE PRESIDENT: Then the answer would be "Yes"?

MAJOR FARR: I thought your Honour was referring to any one branch of the S.S., which was concerned alone with that. The S.S., so far as I know, is the only organisation which played a part in the concentration camp picture, except at the very end of the war when I think, as Colonel Storey said yesterday, some members of the S.A. were also involved as guard personnel of concentration camps.

THE TRIBUNAL (Mr. BIDDLE): Do you know the total personnel at the end of the war?

MAJOR FARR: Of the entire S.S.

THE TRIBUNAL (Mr. BIDDLE): Yes.

MAJOR FARR: That is something you would have to estimate. I quoted to the Tribunal yesterday the figures that d'Alquen gave as the strength of the "Allgemeine S.S." in 1939. He said then that there were about 240,000 men in the "Allgemeine S.S." There were, at that time, about four regiments of Death Head Units, several other regiments of the "Verfuegungstruppe," a few thousand personnel involved in the S.D., so that I should say in 1939 you had about 250,000 to 300,000 members of the S.S. With the outbreak of the war, the "Waffen S.S." was built up from a few regiments of the Verfuegungstruppe to about 31 divisions at the end of the war, which probably would mean that the "Waffen S.S." by 1941, had had some 400,000 to 500,000 persons involved. I take it that 400,000 to 500,000 members of the "Waffen S.S." would be in addition to personnel of the "Allgemeine S.S.," who were subject to compulsory military service in

the Wehrmacht. So that, if I had to estimate, I would say that probably some 750,000 persons would be the top figure of personnel who had been involved in the S.S. from the beginning, but that is only an estimate.

THE TRIBUNAL (Mr. BIDDLE): Then you have no break down to show how many of those were civilians, clerks, stenographers, soldiers and so on?

MAJOR FARR: No. When we are talking about S.S. members, we are not talking about stenographers who worked in the office, who were not members of the S.S. By S.S. members, we mean personnel who took the oath and appeared on the membership list, either as a member of the "Allgemeine S.S.," the Death Head Units, or the "Waffen S.S." I would think that my figure of 750,000 was a figure including members of the S.S., "Allgemeine S.S.," the "Totenkopfverbände," and the "Waffen S.S."

I was pointing out the shift of control of concentration camps to W.V.H.A. in 1942, which was coincident with the shift in the basic purpose of the camps, which heretofore had been concerned with custody of individuals for political and security reasons. The basic purpose of the camps was to furnish manpower, and I now want to point out to the Court the agencies of the S.S. which were involved in that manpower drive.

The Tribunal has already received evidence of an order, which was issued in 1942, shortly after the transfer to W.V.H.A. of concentration camp control, directing Security Police to furnish at once 35,000 prisoners qualified for work in the camps. That order is our Document 1063-PS, and was received in evidence as Exhibit USA 219.

35,000 prisoners were, of course, merely the beginning. The S.S. dragnet was capable of catching many more slaves. I offer in evidence a carbon typewritten copy of a directive to all the departments of the S.S. Supreme Command, issued from Himmler's field headquarters on the 5th and 6th August, 1943. It is Document 744-PS. I offer it as Exhibit USA 455. That directive appears on Page 2 of the translation. It implements an

order signed by the defendant Keitel, directing the use of all males, captured in guerilla fighting in the East, for forced labour. The Keitel directive appears on Page 1 of the translation.

I shall read only the Himmler directive appearing on Page 2 of the translation. The Tribunal will note that it is addressed to every main office of the S.S. Supreme Command. I read that list of addresses of the directive:

1. Chief of the personnel staff of Reichsfuehrer S.S.
2. S.S. Main Office.
3. Reich Security Main Office (R.S.H.A.).
4. Race and Resettlement Main Office S.S.
5. Main Office, Ordinary Police.
6. S.S. Economic Administrative Main Office.
7. S.S. Personnel Main Office.
8. Main Office S.S. Court.
9. S.S. Supreme Command - Headquarters of the 'Waffen S.S.'
10. Staff Headquarters of the Reich Commissar for the Consolidation of Germanism.
11. Main Office Centre for Racial Germans.
12. Office of S.S. Obergruppenfuehrer Heissmeyer.
13. Chief of the Guerilla-fighting Units.

I point out to the Court that every one of the main offices appearing on the chart is a recipient of that directive. The next addresses are the Higher S.S. and Police Leaders in the various regions.

I continue to quote the body of the directive
“To figure 4 of the above-mentioned order I direct, that all young female prisoners capable of work are to be sent to Germany, through the agency of Reich Commissioner Sauckel.

Children, old women and men are to be collected and employed in the women's and children's camps, established by me on estates as well as on the border of the evacuated area.”

In April 1944 the S.S. was called on to produce even more labourers this time 100,000 Jews from Hungary. The Tribunal will recall the minutes of the defendant Speer's discussion with Hitler on the 6th and 7th of April, 1944, which were found in our Document R-124 at page 36, and were read to the Court, in evidence as Exhibit USA 179, minutes in which Speer referred to Hitler's statement that he would call on the Reichsfuehrer S.S. to produce 100,000 Jews from Hungary.

The last source of man-power had not been tapped. To Jews, deportees, women and children, there was added the productive power of prisoners of war. It was through the S.S. that the conspirators squeezed the last drop of labour from such prisoners.

I refer to statement by the defendant Speer, which appears in our Document R-124 at Page 13 of the translation, the document itself having already been introduced in evidence as Exhibit USA 179. The statement is found at Page 7, last paragraph of the original, Page 13 of the Document R-124, the next to the last paragraph on Page 13. That appears in volume 2 of the document book. I quote:

"Speer: We have to come to an arrangement with the Reichsfuehrer S.S. as soon as possible so that P.W.'s he picks up are made available for our purposes. The Reichsfuehrer S.S. gets from thirty to forty thousand men per month."

In order to insure S.S. control over the labour of prisoners of war, the Reichsfuehrer S.S. was finally appointed as head of all prisoner-of-war camps on 25th September, 1944. I offer in evidence the letter referring to his appointment. It is our Document 058-PS. It is Exhibit USA 456. It will be found in Volume 1 of the document book. That letter is a circular letter from the Director of the Party Chancellery, dated the 30th of September, 1944, and signed "M. Bormann." I quote, beginning with the first paragraph:

"1. The Fuehrer has ordered under the date 25 September, 1944:

The custody of all prisoners of war and interned persons, as well as prisoner-of-war camps and institutions with guards, are transferred to the Commander of the Reserve Army from October 1, 1944.”

Passing to paragraph 2 of the letter, I shall read sub-paragraphs (a) and (c), I quote:

2. The Reichsfuehrer S.S. has commanded:

(a) In my capacity as Commander of the Reserve Army, I transfer the affairs of prisoners of war to Gottlieb Berger S.S.-Lieut-General Chief of Staff of the Volksturn.”

Passing now to sub paragraph (c):

“(c) The mobilisation of labour of the prisoners of war will be organised with the present labour mobilisation office in joint action between S. S.-Lieut.-General Berger and S.S.-Lieut.-General Pohl.

The strengthening of security in the field of prisoners of war affairs is to be accomplished between S.S.-Lieut.-General Berger and the Chief of the Security Police, S.S.-Lieut.-Gen. Dr. Kaltenbrunner.”

Thus the S.S finally took over direction and control of prisoner-of-war camps.

So impressive were the results obtained from S.S. concentration camp labour, that in 1944 the defendant Goering called on Himmler for more inmates for use in the aircraft industry. The Tribunal will recall his teletype to Himmler, our Document 1584-PS, Part 1, which was read in evidence by Mr. Dodd, as Exhibit USA 221. Let me now read Himmler’s reply to that teletype. It is our Document 1584-PS, Part 3, and will be found on Page 2 of Part 3 of 1584-PS. I offer it in evidence as Exhibit USA 457. I quote the beginning of that letter:

“Most Honoured Reichsmarshal:

Following my teletype letter of 18 February 1944 I herewith transmit a survey on the employment of prisoners in the aviation industry.

This survey indicates that at the present time about 36,000 prisoners are employed for the purposes of the Air Force. An increase to a total of 90,000 prisoners is contemplated.

The production is being discussed, established and executed between the Reich Ministry of Aviation and the Chief of my Economic Administrative Main Office, S.S. Obergruppenfuehrer and General of the Waffen S.S. Pohl respectively:

We assist with all the forces at our disposal.

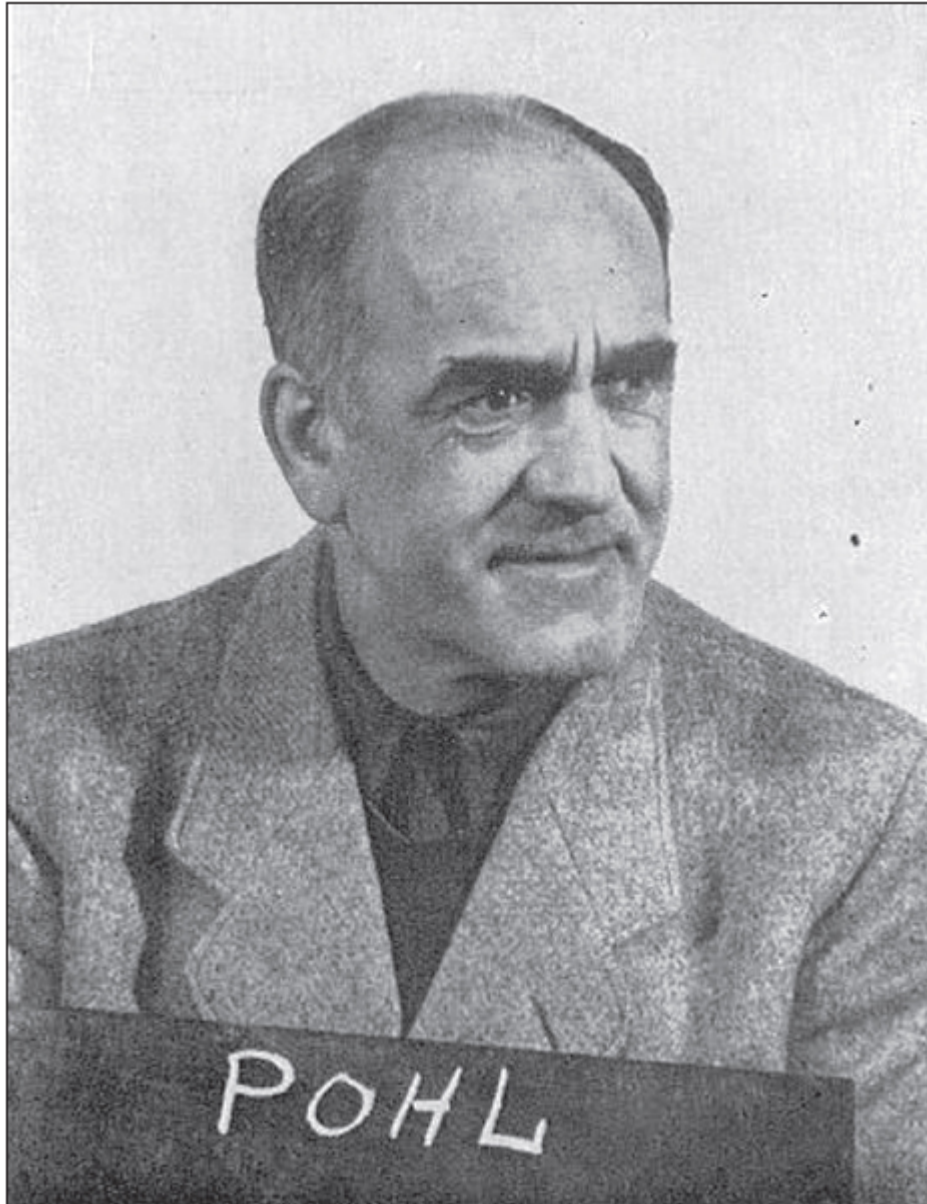
The task of my Economic Administrative Main Office, however, is not completely fulfilled with the delivery of the prisoners to the aviation industry, as S.S.-Obergruppenfuehrer Pohl and his assistants take care of the required working speed through constant control and supervision of the work-groups (Kommandos) and therefore have some influence on the resulting production. In this respect I may suggest consideration of the fact that in enlarging our responsibility through a speeding-up of the total work, better results can definitely be expected.”

I pass now to the last two paragraphs of the letter, which will be found on the next page of the translation:

“The movement of manufacturing plants of the aviation industry to subterranean locations requires further employment of about 100,000 prisoners. The plans for this employment on the basis of your letter of 14 February 1944 are already under way.

I shall keep you, most honoured Reichsmarshal, currently informed on this subject.”

Incidentally, I might call to the Tribunal’s attention the fact that S.S. Obergruppenfuehrer Pohl, who was head of the W.V.H.A., was also a General of the “Waffen S.S.,” which goes to show that there is no manner in which you can characterise functions in the S.S.



Oswald Pohl as a defendant before the Nuremberg Military Tribunal. Pohl rose to the rank of SS-Obergruppenführer and was executed in June 1951.

The extent to which the number of prisoners was increased through S.S. efforts is illustrated by our Document 1166-PS, which I offered in evidence yesterday as Exhibit USA 458. This document is a report from Office Group D of W.V.H.A., dated the 15th of August, 1944. I shall read the first page of that report, beginning:

“With reference to the above-mentioned telephone call, I am sending herewith a report on the actual number of prisoners for 1 August, 1944 and of the new arrivals already announced, as well as the clothing report for 15 August, 1944.

“1. The actual number on 1 August 1944, consisted of:

(a) Male prisoners 379,167

(b) Female prisoners 45,119

In addition, there are the following new arrivals:

1. From the Hungary programme (anti-Jewish action) - 90,000

2. From Litzmannstadt (Police prison and Ghetto) - 60,000

3. Poles from the Government General - 15,000

4. Convicts from the Eastern Territories - 10,000

5. Former Polish officers - 17,000

6. From Warsaw (Poles) - 400,000

7. Continued arrivals from France, approx. - 15,000-20,000

Most of the prisoners are already on the way and will be received into the concentration camps within the next few days,”

This intensive drive for manpower to some extent interfered with the programme which W.V.H.A. had already undertaken to exterminate certain classes of individuals in the camps. I offer a photostatic copy of a letter from W.V.H.A., dated 27th April, 1943, our Document 1933-PS. It is Exhibit USA 459. The letter is addressed to a number of concentration camp commanders, is signed by Gluecks, S.S. Brigade Fuehrer and Major General of the “Waffen S.S.” I read it:

“The Reichsfuehrer-S.S. and Chief of the German Police has decided after consultation, that in the future only mentally sick prisoners may be selected for action 14-F-13 by the medical commissions appointed for this purpose.

All other prisoners incapable of working (tubercular cases, bedridden cripples, etc.) are to be basically excepted from this action. Bedridden prisoners are to be drafted for suitable work which they can perform in bed.

The order of the Reichsfuehrer S.S. is to be obeyed strictly in future.

Requests for fuel for this purpose are therefore out of the question.”

The action “14-F-13” is not defined in the letter but it is perfectly apparent what it means. Every human being, bedridden, crippled, no matter what his physical condition, from whom any work at all could be extracted, was to be excepted from the action. Only the insane, from whom nothing could be expected, were to suffer the action. What could the action be? It is perfectly apparent. The action was extermination.

The S.S., however, was to some degree enabled to achieve both goals that of increased production and of elimination of undesirables. The Tribunal will recall the agreement between Minister of Justice Thierack and Himmler on 18th September, 1942, our Document 654-PS, which was read in evidence by Mr. Dodd as Exhibit USA 218. I am not going to quote again from that document, but will remind the Tribunal that the agreement provided for the transfer of anti-social elements from the prison to the Reichsfuehrer S.S. for extermination through work.

The conditions under which such persons worked in the camps were well calculated to lead to their death. Those conditions were regulated by the W.V.H.A. As an illustration of W.V.H.A. management, I call the Court’s attention to our Document 2189-PS, which I offer in evidence as Exhibit USA 460. It is an order directed to commandants of concentration camps, dated 11th August, 1942, and bearing the facsimile signature, which does not appear on the translation, but does appear on the original, of S.S. Brigade Fuehrer and General of the Waffen S.S. Gluecks, who was Chief of

Office Group D of W.V.H.A. That is Document 2189-PS. I read the body of that letter:

“The Reichsfuehrer S.S. and Chief of the German Police has ordered that punishment by beating will be executed in concentration camps for women by prisoners under supervision, as ordered.

In accordance with this order the Main Office Chief of the Main S.S. Economic Administration Office, S.S.-Obergruppenfuehrer and General of the Waffen S.S. Pohl, has ordered, to be effective immediately, that punishment by beating will also be executed by prisoners in concentration camps for men.

It is forbidden that foreign prisoners should execute the punishment on German prisoners.”

Even after their death, the prisoners did not escape the management of W.V.H.A. I refer the Court to our Document 2199-PS, a letter to commanders of concentration camps, dated 12th September, 1942, and signed by the Chief of the Central Office of Office Group D of W.V.H.A., S.S. Obersturmbannfuehrer Leibehenschel. I offer this as Exhibit USA 461. I shall read the body of that directive, which appears on Page 1 of the translation of 2199-PS. I quote:

“According to a communication of the Chief of the Security Police and the S.D., and conforming to a report of the Chief of Security Police and S.D., in Prague, urns of deceased Czechs and Jews were sent for burial to the home-cemeteries within the Protectorate.

In view of different events (demonstrations, placing posters inimical to the Reich on urns of deceased inmates in the halls of the home town cemeteries, of pilgrimages to the graves of deceased inmates, etc.) within the Protectorates, the delivery of urns with the ashes of deceased nationals of the Protectorate and of Jews is henceforth prohibited. The urns shall be kept within the concentration camps. In case of doubt about keeping the urns oral instructions shall be obtained from this agency.”

The S.S. indeed regarded the inmates of concentration camps as its own personal property to be used for its own economic advantage. The Tribunal will recall that as early as 1942, the defendant Speer recognised that the S.S. was moved by the desire for further profits, when he suggested to Hitler that the S.S. receive a share of the war equipment produced by concentration camp labour, in ratio to the working hours of the prisoners. I refer to our Document R-124, at page 136, which was read into evidence by Mr. Dodd as Exhibit USA 179. The Fuehrer agreed that a 3 to 5 per cent share should satisfy the S.S. commanders. Himmler himself frankly admitted his intention to derive profits for S.S. purposes from the camps, in his mass-speech to the officers of the S.S. Leibstandarte "Adolf Hitler," our Document 1918, Exhibit USA 364 - the passage in question being found at the top of Page 3 of the English translation and on Page 10 of the original German, seven lines from the bottom. The passage begins:

"The apartment-building programme which is the prerequisite for a healthy and social basis of the entire S.S., as well as of the entire Fuehrercorps, can be carried out only when I get the money for it from somewhere. Nobody is going to give me the money. It must be earned, and it will be earned by forcing the scum of mankind, the prisoners, the professional criminals, to do positive work. The man guarding those prisoners serves just as hard as the one on close-order drill. The one who does this and stands near these utterly negative people, will learn within three to four months, and we shall see: in peacetime, I shall form guard battalions and put them on duty for three months only to fight the inferior beings, and this will not be a boring guard duty, but if the officers handle it right, it will be the best indoctrination on inferior beings and inferior races.

This activity is necessary, as I said: (1) to eliminate these negative people from German people; (2) to exploit them once more for the great folk community, by having them break stones and bake bricks, so that the Fuehrer can again erect his grand buildings; and (3) in turn to invest the

money, earned soberly this way, in houses, in land, in settlements, so that our men can have houses in which to raise large families, and have lots of children. This in turn is necessary because we stand or die with this leading blood of Germany, and if the good blood is not reproduced, we will not be able to rule the world.”

One final aspect of S.S. control over concentration camps remains to be mentioned. That is its direction of the programme of biological experiments on human beings, which was carried on in the camps. Just a few days ago, another military tribunal passed judgment on some of those who participated in the experiments at Dachau.

THE PRESIDENT: There is no date on that document you just read, is there?

MAJOR FARR: There appears to be no date on the English translation. The original document bears the notation of a speech in April, 1943.

At a later stage in this case, evidence of some of the details of this programme of experiments will be presented. It is not my purpose to deal with those experiments from the substantive aspect. I shall show only that they were the result of S.S. direction, and that the S.S. played a vital part in their successful execution.

The programme seems to have originated in a request by a Dr. Sigmund Rascher to Himmler, for permission to utilise persons in concentration camps as material for experiments with human beings, in connection with some research he was conducting on behalf of the Luftwaffe. I refer to our Document 1602-PS, a photostatic copy of a letter, dated 15th. May, 1941, addressed to the Reichsfuehrer S.S., and signed “S. Rascher.” I offer it as Exhibit USA 454. I shall quote from the second paragraph of the translation, the fourth paragraph of the original letter. I quote:

“For the time being I have been assigned to the Luftgaukommando VII, Munich, for a medical course. During this course, where researches on high-altitude flights play a prominent part (determined by the somewhat

higher ceiling of the English fighter planes) considerable regret was expressed at the fact that no tests with human material had yet been possible for us, as such experiments are very dangerous and nobody volunteers for them. I put, therefore, the serious question: can you make available two or three professional criminals for these experiments? The experiments are made at 'Bodenstaendige Phuestelle fuer Hoehenforschung der Luftwaffe, Munich.' The experiments, in which the subjects may, of course, die, would take place with my co-operation. They are essential for researches on high-altitude flight and cannot be carried out, as has been tried, with monkeys, who offer entirely different test-conditions. I have had a very confidential talk with a representative of the Air Force, Surgeon, who makes these experiments. He is also of the opinion that the problem in question could only be solved by experiments on human persons. (Feeble-minded could also be used as test material)."

Dr. Rascher promptly received assurance from the S.S. that he would be allowed to utilise concentration camp inmates for his experiments.

I refer to our Document 1582-PS, a letter dated the 22nd of May, 1941, addressed to Dr. Rascher, and bearing the stamp of the Personal Staff of the Reichsfuehrer S.S., and the initials, "K Br," which initials are those of S.S. Sturmbannfuehrer Karl Brandt. I offer this letter as Exhibit USA 462.

"Dear Dr. Rascher:

Shortly before flying to Oslo, the Reichsfuehrer S.S. gave me your letter of 15 May 1941, for partial reply.

I can inform you that prisoners will of course be readily made available for the high-flight researches. I have informed the Chief of the Security Police of this agreement of the Reichsfuehrer S.S., and requested that the competent official be instructed to get in touch with you."

The altitude experiments were conducted by Rascher, and in May 1942, General Field Marshal Milch, on behalf of the Luftwaffe, expressed his

thanks to the S.S. for the assistance it furnished in connection with the experiments.

I refer to our Document 343-PS, and I offer in evidence an original letter, dated the 20th of May, 1942, addressed to S.S. Obergruppenfuehrer Wolff, and signed E. Milch, as exhibit USA 463. That letter, which appears on Page 2 of the translation, and on Page 1 of the original German, is as follows:



This shocking photograph shows Professor Holzlohner (left) and Dr Sigmund Rascher (right) overseeing an extreme cold water immersion experiment at Dachau concentration camp.

Dear Wolff - (the German says, 'Liebes Woelffchen') -

In reference to your telegram of 12 May, our sanitary inspector reports to me that the altitude experiments carried out by the S.S. and Air Force at Dachau have been finished. Any continuation of these experiments seems materially unjustifiable. However, the carrying out of experiments of some other kind, in regard to perils on the high seas, would be important. These have been prepared in immediate agreement with the proper offices; Major (MC) Weltz will be charged with the execution and Capt. (M.C.) Rascher will be made available until further orders in addition to his duties within the Medical Corps of the Air Corps. A change of these measures does not appear necessary, and an enlargement of the task is not considered pressing at this time.

The low-pressure chamber would not be needed for these low temperature experiments. It is urgently needed at another place and therefore can no longer remain in Dachau.

I convey the special thanks from the Supreme Commander of the Air Corps to the S.S. for their extensive co-operation.

I remain with best wishes for you in good comradeship and with Heil Hitler!

Always yours

E. Milch."

THE PRESIDENT: Major Farr, had you not better read the letter on the preceding page? It may be capable of an explanation.

MAJOR FARR: The letter on the preceding page, dated the 31st of August, 1942, is also from General Field Marshal Milch, and is addressed to the Reichsfuehrer S.S. It reads as follows:

"Dear Himmler:

I thank you very much for your letter of the 25th of August. I have read with great interest the reports of Dr. Rascher and Dr. Romberg. I have been informed about the current experiments. I shall ask the two gentlemen to

give a lecture, combined with the showing of motion pictures, to my men in the near future. Hoping that it will be possible for me to see you on the occasion of my next visit to Headquarters, I remain with best regards and Heil Hitler!

Yours

E. Milch.”

Having finished his high altitude experiments, Dr. Rascher proceeded to experiments with methods of re-warming persons who had been subjected to extreme cold. I refer to our Document 1618-PS, which is an intermediate report on intense chilling experiments which had been started in Dachau on the 15th of August, 1942. That report, signed by Dr. Rascher, I offer in evidence as Exhibit USA 464. I shall read only a few sentences from the report, beginning with the first paragraph:

“Experimental procedure.

Persons subjected to experiments were placed in the water, dressed in complete flying uniform, winter or summer combination, and with an aviator’s helmet. A life jacket made of rubber or kapok was to prevent submerging. The experiments were carried out at water temperatures varying from 2.5 degrees to 12 degrees. In one experimental series, occiput and brain stem were above the water, while in another series of experiments, the neck (brain stem) and the back of the head were submerged in the water.

Electrical measurement gave low temperature readings of 26.4 degrees in the stomach and 26.5 degrees in the rectum. Fatal casualties occurred only when the brain stem and the back of the head were also chilled. Autopsies of such fatal cases always revealed large amounts of free blood, up to one-half litre, in the cranial cavity. The heart regularly showed extreme dilation of the right chamber. As soon as the temperature in these experiments reached 28 degrees, the experimental subjects died invariably, despite all reviving attempts.”

I pass now to the last paragraph of the report. I quote:

“During attempts to save severely chilled persons, it was evident that rapid re-warming was in all cases preferable to slow re-warming, because after removal from the cold water, the body temperature continued to sink rapidly. I think that, for this reason, we can dispense with the attempt to save intensely chilled subjects by means of animal warmth.

Re-warming by animal warmth - animal bodies or women's bodies - would be too slow.”

Although Rascher was thus of the preliminary opinion that re-warming by women's bodies would be too slow, means for conducting such experiments were nevertheless placed at his disposal. I refer to our Document 1583-PS, a photostatic copy of a letter from Reichsfuehrer S.S. Himmler, addressed to Lieutenant General Pohl, dated the 16th of November, 1942. I offer it as Exhibit USA 465. I shall read just the first two paragraphs of that letter:

“Dear Pohl:

The following struck me during my visit to Dachau on the 13th of November 1942, regarding the experiments conducted there for the saving of people whose lives are endangered through exposure in ice, snow or water, and who are to be saved by the employment of every method or means.

I had ordered that suitable women are to be set aside from the concentration camp for these experiments for the warming of those who were exposed. Four girls were set aside who were in the concentration camp for loose morals, and because as prostitutes they were a potential source of infection.”

I think it is unnecessary for me to go on with the rest of the paragraph, in which he expresses his dissatisfaction that a German prostitute should be used for this purpose.

To insure the continuance of Rascher's experiments, Himmler arranged for his transfer to the “Waffen S.S.” I offer in evidence a letter which

appears as our Document 1617-PS. It is a letter from Reichsfuehrer S.S. addressed to "Dear Comrade Milch" - General Field Marshal Milch - dated November, 1942. I offer it as Exhibit USA 466. I will now read the first paragraphs of that letter, our Document 1617- PS. I quote:

Dear Comrade Milch:

You will recall that through General Wolff I particularly recommended to you for your consideration the work of a certain S.S. Fuehrer, Dr. Rascher, who is a physician of the Air Force Reserve.

These researches which deal with the reaction of the human organism at great heights, as well as with symptoms caused by prolonged cooling of the human body in cold water, and similar problems which are of vital importance to the Air Force in particular, can be performed by us with particular efficiency because I personally assumed the responsibility for supplying asocial elements and criminals who only deserve to die, from concentration camps, for these experiments."

I shall omit the next four paragraphs, in which Himmler reflects upon the difficulties of conducting such experiments, because Christian medical circles were opposed, and pass on to the last paragraph on the first page of the translation. That is the seventh paragraph of the letter:

"I beg you to release Dr. Rascher, Stabsarzt in reserve, from the Air Force and to transfer him to me to the 'Waffen S.S.' I would then assume the sole responsibility for having these experiments made in this field, and would put the results, of which we in the S.S. need only a part for the first injuries in the East, entirely at the disposal of the Air Force. However, in this connection, I suggest that with the liaison between you and Wolff a non-Christian physician should be charged, who should be at the same time honourable as a scientist and not prone to intellectual thrift and who could be informed of the results. This physician should also have good contacts with the administrative authorities, so that the results would really attract attention.

I believe that this solution to transfer Dr. Rascher to the S.S., so that he could carry out the experiments under my responsibility and under my orders, is the best way. The experiments would not be stopped; we owe that to our men. If Dr. Rascher remained with the Air Force, there would certainly be much annoyance, because then I would have to bring a series of unpleasant details to you, because of the arrogance and presumption which Professor Dr. Holzloehner has displayed in his position at Dachau, where, although under my command, he made remarks about me to S.S. Colonel Sievers. In order to save both of us this trouble, I suggest again that Dr. Rascher should be transferred to the Waffen S.S. as quickly as possible.”

THE PRESIDENT: Is that letter from Himmler?

MAJOR FARR: That letter is from Himmler.

Now Rascher’s experiments were by no means the only experiments in which the S.S. was interested. Without attempting even to outline the whole extent of the experimental programme, I shall give just one further illustration of this type of S.S. activity. I refer to our Document L-103, which is a report prepared by the Chief Hygienist in the Office of the Reich Surgeon of the S.S. and Police, dated 12th September, 1944. I offer it as Exhibit USA 467. (Parenthetically I might note that the office of the Reich Surgeon S.S. and Police will be found in the personal staff department, as indicated by the second box on the right-hand side of the line leading down from the personal staff.)

I shall read a few paragraphs from this report, which is a report prepared by the Chief Hygienist in the office of the Reich Surgeon of S.S. and Police, and signed S.S. Oberfuehrer Dr. Murgowsky. It relates to experiments with poison bullets. Beginning with the first paragraph, I quote:

“On 11th September, 1944, in the presence of S.S. Sturmbannfuehrer Dr. Ding, Dr. Widmann and the undersigned, experiments with Conotine-nitrate bullets were carried out on five persons who had been sentenced to death. The calibre of the bullets used was 7.65 millimetres, and they were filled

with poison in crystal form. Each subject of the experiment received one shot in the upper part of the left thigh, while in a horizontal position. In the case of two persons, the bullets passed clean through the upper part of the thigh. Even later no effect from the poison could be seen. These two subjects were therefore rejected.”

I omit the next few sentences and proceed beginning with paragraph 2 of the report:

“The symptoms shown by the three condemned persons were surprisingly the same. At first, nothing special was noticeable. After 20 to 25 minutes, a disturbance of the motor nerves and a light flow of saliva began, but both stopped again. After 40 to 44 minutes, a strong flow of saliva appeared. The poisoned persons swallowed frequently, later the flow of saliva was so strong that it could no longer be controlled by swallowing. Foamy saliva flowed from the mouth. Then a sensation of choking, and vomiting started.”

The next three paragraphs describe in coldly scientific fashion the reactions of the dying persons. The description then continues - and I want to quote the two paragraphs before the conclusion. It is the last paragraph on Page 1 of the translation, the sixth paragraph of the report:

“At the same time there was acute nausea. One of the poisoned persons tried in vain to vomit. In order to succeed he put four fingers of his hand, up to the main joint, right into his mouth. In spite of this, no vomiting occurred. His face became quite red.

The faces of the other two subjects had already become pale at an early stage. Other symptoms were the same. Later on the disturbances of the motor nerves increased so much that the persons threw themselves up and down and rolled their eyes and made aimless movements with their hands and arms. At last the disturbance subsided, the pupils were enlarged to the maximum, the condemned lay still. Massetercramp and loss of urine were observed in one of them. Death occurred 121, 123 and 129 minutes after they were shot.”

The fact that S.S. doctors engaged in such experiments was no accident. It was consistent with an ideology and racial philosophy which, to use Himmler's words, regarded human beings as lice and offal. But the most important factor was that the S.S. alone was in a position to supply necessary human material. It did supply such material through W.V.H.A. I refer to our Document 1751- PS, which is a letter from the Chief of Office Group D of W.V.H.A, dated 12th May, 1944. I offer it as Exhibit USA 468, I quote that letter. It appears in the original file on the last page.

“There is cause to call attention to the fact that in every case permission for assignment has to be requested before assignment of prisoners is made for experimental purposes.

To be included in this request are number, kind of custody, and in case of Aryan prisoners, exact personal data, file number in the Reich Security Main Office and the reason for detention in the concentration camp.

Herewith, I explicitly forbid assignment of prisoners for experimental purposes without permission.”

The translation says that the signature is illegible, but I think it appears from the original that it is the signature of Gluecks, since he was the department chief of Department D of W.V.H.A. It was on the basis of being able to supply such material that the Reich Ministry of Finance was prepared to subsidise the S.S. experimental programme. I offer in evidence a series of letters between the Ministry of Finance, the Reich Research Department and the Reich Surgeon of the S.S. and Police. They are our Document 002-PS, which I offer in evidence as Exhibit USA 469. The first letter from which I quote appears on Page 4 of our Document 002-PS, and is from the Head of the Security Council of the Reich Research Department, addressed to the Surgeon of S.S. and Police. It is dated 19th February, 1943. I read the first three paragraphs of that letter:

“The Reich Minister of Finance told me that you requested 53 leading positions for your office, partly for a new research institute.

After the Reichsmarschall of the Greater German Reich had, as President of the Reich Research Department, himself taken charge of all German research, he issued directives, among other things, that in the execution of important military scientific tasks, the available institutions, including equipment and personnel, should be utilised to the utmost, for reasons of necessary economy of resources.

The foundation of new institutes comes therefore in question only in as far as there are no outstanding institutes available for the furtherance of important war research tasks.”

I omit the rest of the letter.

To this letter the Reich Surgeon of the S.S. and Police replied on the 26th February, 1943. The reply will be found on Page z of the English translation. It is a letter from the Reich Surgeon S.S. and Police to the Head of the Security Council of the Reich Research Department, dated 26th February, 1943. I quote the first three paragraphs of that letter. It begins:

“In acknowledgment of your letter of the 19th February, 1943, I am able to reply today as follows:

The suggested creation of 53 key positions in my department which you made the basis of your memorandum is a veritable peace-time set-up.

The special institutes of the S.S. which were to have a part of these positions would have to serve the purpose of establishing and making accessible for the entire realm of scientific research possibilities of research only open to the S.S.”

Omitting the next two paragraphs, I continue:

“I will gladly be at your disposal at any time to discuss the particular research aims in connection with the S.S., which I would like to bring up upon the direction of the Reichsfuehrer S.S.”

An interview between the Reich Surgeon and Mentzel, the author of the original letter, took place, and on 25th March, 1943, Mentzel wrote a letter to the Reich Minister of Finance, which is found on Page 1 of the

translation. It is a letter from the President of the Reich Research Department, Head of the Security Council to the Reich Minister of Finance, dated 25th March, 1943. The letter begins:

“In regard to your letter of 19th December “ - and then follow the serial numbers of the letter - to which I gave you a preliminary answer on 19th February, I finally take the following position:

The Reich Surgeon S.S. and Police in a recent conversation with me maintained that the establishment demands made by him basically affect the purely military sector of the Waffen S.S. As these demands have to some extent been made in order to enlarge the scope of scientific research work, they exclusively refer to such matters as can only be carried out with the material at the disposal of the Waffen S.S. (prisoners) and therefore cannot be handled by any other research office. I cannot therefore, on behalf of the Reich Research Council, object to the establishment demands of the Reich Surgeon S.S. and Police.”

The letter is signed, “Mentzel, Bureau Chief.”

Thus it was because the S.S. was in a position to supply material for the programme of experiments that it took the lead in that field of endeavour.

THE PRESIDENT: Does the letter on Page 4 mean that the defendant Goering was president of the Reich Research Department?

MAJOR FARR: Page 4 of the translation? Yes, that I understand is the case, the point of the letter being that Goering had laid down the rule that during the war there was to be no duplication of experimental facilities. Therefore, the Reich Research Department to which the Minister of Finance had turned for an opinion, asked the Reich Surgeon, “Why do you want to carry out this programme of experiments?”

THE PRESIDENT: I was only asking whether the President of the Reich Research Department was the defendant Goering?

MAJOR FARR: That is what is stated in the letter. I understand that to be the case.

THE PRESIDENT: Then what do the words, “President of the Reich Research Department“ on Page 1 mean? Does that mean that the letter went to the defendant Goering?

MAJOR FARR: No. The letterhead bears the notation “President of the Reich Research Department,” and the letter proceeds from an office of that department, Head of the Security Council. The letter was addressed to the Reich Minister of Finance.

THE PRESIDENT: I see.

MAJOR FARR: I have concluded the concentration camp phase.

THE PRESIDENT: We will recess now for ten minutes.

(A recess was taken.)

THE PRESIDENT: It will perhaps be convenient that I should announce that the Tribunal will adjourn today at four o’clock.

MAJOR FARR: Through its activities with respect to concentration camps, the S.S. performed part of its mission to safeguard the security of the Nazi regime. But another specialised aspect of that mission must not be forgotten. The Tribunal will recall Himmler’s definition of that task - a definition I referred to earlier - the prevention of a Jewish-Bolshevist revolution of subhumans. In plain words, participation in the Nazi programme of Jewish persecution and extermination.

It would be idle for me to refer again at any length to the evidence relating to that programme which the Tribunal heard a day or so ago from Major Walsh. I want to call attention to just a few documents showing how the programme involved every branch and component of the S.S.

The racial philosophy of the S.S., which I dealt with at the very outset, made that organisation a natural agency for the execution of all types of anti-Semitic measures. The S.S. position on the Jewish question was publicly stated in the S.S. newspaper “Das Schwarze Corps” the issue of 8th August, 1940, by its editor, Gunter d’Alquen, in an article which has already been read into evidence as Exhibit USA 269. It is our Document

2668-PS. I shall not repeat that quotation, in which d'Alquen says that the Jewish question will not be solved until the Last Jew has been deported, and that the German peace which awaits Europe must be a peace without Jews.

The attempted solution of the Jewish question through the "spontaneous" demonstrations in Germany following the murder of von Rath in November, 1938, has been presented to the Tribunal. In those demonstrations all branches of the S.S. were called on to play a part. I refer to the teletype message from S.S. Gruppenfuehrer Heydrich, Chief of the Security Police and S.D., issued on 10th November, 1938. It is our Document 3051-PS. Portions of that teletype have already been read into evidence as Exhibit USA 240. I wish to read one further paragraph, which has not been read. It appears on Page 2 of the translation, the fourth paragraph.

"The direction of the measures of the Security Police concerning the demonstrations against Jews is vested with the organs of the State Police (by which he means the Gestapo) inasmuch as the inspectors of the Security Police are not issuing their own orders. In order to carry out the measures of the Security Police, officials of the Criminal Police, as well as members of the S.D., of the Verfuegungstruppe and the Allgemeine S.S. may be used."

With the outbreak of the war and the march of Nazi armies over Europe, the S.S. participated in solving the Jewish question in other countries in Europe. The solution was nothing short of extermination. To a large degree these wholesale murders were disguised under the name of "anti-partisan" or "anti-guerilla" actions, and as such included as victims not merely Jews but Soviets, Poles and other Eastern peoples. With this anti-partisan activity I shall deal in a few moments.

I want to refer now to a few actions confined essentially to Jews. To take one example - the mass annihilation of Jews in gas vans - described in our Document 501-PS, which was read into the record by Major Walsh as Exhibit USA 288. I simply want to point out that these gas vans, as appears

from the letters, were operated by the Security Police and S.D. under the direction of R.S.H.A. Or to take another example - the report entitled "Solution of the Jewish Question in Galicia," our Document L-18, prepared by S.S. Gruppenfuehrer and Lt.-General of the Police Katzmann and rendered to S.S. Obergruppenfuehrer and General of the Police Krueger - that report has already been received in evidence as Exhibit USA 277. The Tribunal will recall that the solution, which consisted in the evacuation and extermination of all the Jews in Galicia, and the confiscation of their property, was carried out under the energetic direction of the S.S. and Police Leaders, with the assistance of S.S. Police Units. I wish to read three short items in the report, which has not yet been read. The first is a text under a photograph which appears on Page 3 of the translation and on Page 3 (a) of the original report. It is the first item on Page 3 of the translation. I quote:

"Great was the joy of the S.S. men when the Reichsfuehrer S.S. in person, in 1942 visited some camps along the Rollbahn."

The second is a balance sheet, which appears on Page 11 of the translation and Page 17 of the report. I read item 3 on the balance sheet:

"3. Amount paid over to the S.S. cashier:

a. Camps - .6,867,251,00 zlotys

b. W & R Factories - 6,556,513,69 zlotys

Total - 13,423,764,69 zlotys

Further payments to the S.S. cashier are effected every month."

The third item I desire to read is the last two paragraphs of the report found on Page 20 of the translation and on Page 64 of the original document. I read the last two paragraphs of the report:

"Despite the extraordinary burden heaped upon every single S.S. Police Officer during these actions, the mood and spirit of the men were extraordinarily good and praiseworthy from the first to the last day.

Thanks only to the sense of duty of every single leader and man have we succeeded in getting rid of this plague in so short a time."

The final example of S.S. participation in Jewish extermination to which I shall call the Tribunal's attention is the infamous report by S.S. Brigadefuehrer and Major-General of the Police, Stroop, on the destruction of the Warsaw Ghetto, our Document 1061-PS. That report was introduced in evidence by Major Walsh as Exhibit USA 275, and the Tribunal indicated that it would take the whole report in evidence without the necessity of reading it in full. I shall not, therefore, read any further passages, but I do want to point out specifically two sections dealing with the constitution of the forces which participated in that fearful action. On Page 1 of the translation is a table of the units used.

THE PRESIDENT: Is it here?

MAJOR FARR: Our Document 1061-PS. I am just going to call your attention to the table of units which were employed in this action, indicating the average number of officers and men from each unit employed per day. It will be observed that among the units involved were the staff of the S.S. and Police Leader, two battalions of the "Waffen S.S.," two battalions of the 22nd S.S. Police Regiment, and members of the Security Police. The part played by the "Waffen S.S." came in for high praise from the writer of the report. The Tribunal will recall the passage which was read by Major Walsh in which reference was made to the toughness of the men of the "Waffen S.S.," the Police and the Wehrmacht, and in which the writer said that "considering that the greater part of the men of the Waffen S.S. had been trained for only three or four weeks before being assigned to this action, high credit should be given for the pluck, courage, and devotion which they showed."



Leibstandarte SS Adolf Hitler (LSSAH) troops undergo a drill inspection in Berlin, November 1938.

The Tribunal has already heard Himmler's proud boast of the part that the S.S. played in the extermination of the Jews. It occurs in his Posen Speech, our Document 1919-PS, and was read into the record in the presentation of the case dealing with concentration camps. The passage to which I refer appears on about the middle of Page 4 of the translation and on Page 65 of the original. Since that passage has already been read, it is unnecessary for me to quote it again; but I do want the Tribunal to note that Himmler stated that only the S.S. could have carried out this extermination programme of the Jews, and that its participation in that programme was a page of glory in its history which could never be fully appreciated.

I now turn to the manner in which the S.S. fitted into the aggressive war programme of the conspirators, and, also, its responsibility for the Crimes Against Peace which were alleged in the Indictment. From its very beginning, it made prime contributions to the conspirators' aggressive war aims.

First, it served as one of the para-military organisations under which the conspirators disguised their building up of an army in violation of the Versailles Treaty. Second, through affiliated S.S. organisations in other countries and through some of the departments in its own Supreme Command, it fostered Fifth Column movements outside Germany and prepared the way for aggression. Third, through its militarised units, it participated in aggressive actions which eventually were carried out.

The Tribunal has just heard the evidence against the S.A., which demonstrated that from 1933 to 1938 they were militarised and were in fact nothing but a camouflaged army. Some of that evidence related to the S.S. as well. The paramilitary character of the "Allgemeine S.S." is apparent. I have already described the military character of its structure, the military discipline required of its members, and the steps it took to enlist in its ranks young men of military age. In addition to this volunteer army, the S.S. created as early as 1933 fully armed professional units. These were the

“S.S. Verfuegungstruppe” and the Death Head Units with which I dealt yesterday.

While building up the S.S. as a military force within Germany, the conspirators also utilised it in other countries to lay the groundwork for aggression. The evidence presented by Mr. Alderman of the preparations for the seizure of Austria showed the part played by the S.S. Standarte 89 in the murder of Dollfuss, and described the memorial plaque which was erected in Nuremberg as a tribute to the S.S. men who participated in that murder. I refer to Exhibits USA 59 and 60, our Documents L-273 and 2968-PS, which were introduced by Mr. Alderman. The Tribunal will recall the subsequent story of the events of the night of 11th March, 1938, when the S.S. marched into Vienna and occupied all government buildings and important posts in the city - a story unfolded in Exhibit USA 61, our Document 212-PS, the report of Gauleiter Rainer to Reich Commissioner Buerckel (which was read in evidence by Mr. Alderman), and in our Document 2949-PS, Exhibit USA 76, the record of the telephone conversation between the defendant Goering and Dambrowski, which appears on Page 451 of the transcript of the record.

The same pattern was repeated in Czechoslovakia. Henlein's Free Corps played in that country the part of Fifth Column which the Austrian S.S. had played in Austria, and it was rewarded by being placed under the jurisdiction of the Reichsfuehrer S.S., in September, 1938. I refer to our Document 388-PS, which was read in evidence by Mr. Alderman as Exhibit USA 26. The items touched are 37 and 38 of the so-called Schmudt file. Moreover, as shown by item 26 of that file, which Mr. Alderman read into the record, the S.S. had its own armed units - four battalions of the “Totenkopf Verbaende “ - actually operating in Czechoslovakia before the Munich Pact was signed. S.S. preparations for aggression in Czechoslovakia were not confined to military forces. One of the departments of the S.S. Supreme Command - the “Volksdeutsche

Mittelstelle” - which is represented on the chart by the third box from the top at the extreme right - was a centre for Fifth Column activity. The Tribunal may recall the secret meeting between Hitler and Henlein in March, 1938, described in notes of the German Foreign Office, Exhibit USA 95, at which the line to be followed by the Sudeten German Party was determined. The “Volksdeutsche Mittelstelle” was represented at that meeting by Professor Haushofer and S.S. Obergruppenfuehrer Lorenz. And when the Foreign Office, in August, 1938, awarded further subsidies to Henlein’s Sudeten Party, the memorandum of that recommendation for further subsidies contained the significant footnote “Volksdeutsche Mittelstelle will be informed.” I refer to Exhibit USA 96, our Document 3059, which was read into the record by Mr. Alderman, at Pages 631 and 632 of the record.

When at last the time came to strike, the S.S. was ready. I quote from the National Socialist Yearbook for 1940, our Document 2164-PS, Exhibit USA 255, on Page 1, paragraph 2, of the translation; Page 365 of the original, paragraph 3:

“When the march into the liberated provinces of the Sudetenland began, on that memorable 1st October, 1938, the emergency forces (Verfuegungstruppe) as well as the Death Head Units (Totenkopf Verbaende) were with those in the lead.”

I omit the remainder of the paragraph and continue with the next paragraph:

“The 15th March, 1939, brought a similar utilisation of the S.S. when it served to establish order in the collapsing Czechoslovakia. This action ended with the founding of the Protectorate Bohemia-Moravia.

Only a week later, on 29th March, 1939, Memel also returned to the Reich upon the basis of an agreement with Lithuania. Again it was the S.S., here particularly the East-Prussian S.S., which played a prominent part in the liberation of this Province.”

In the final act in setting off the war - the attack on Poland in September, 1939 - the S.S. acted as a sort of stage manager. The Tribunal will recall the oral testimony of Erwin Lahousen with relation to the simulated attack on the radio station at Gleiwitz, by Germans dressed in Polish uniforms - what Lahousen referred to as one of the most mysterious things which uniforms and equipment together, he said at Page 620 of the transcript:

“These articles of equipment had to be prepared, and one day some man from the S.S. or the S.D. (the name is on the official diary of the War Department) fetched them.”

The war broke out and the “Waffen S.S.” again took its place in the van of the attacking forces.

During the war great use was made of the peculiar qualities possessed by the S.S., qualities not only of its combat forces but of its other components as well. I turn now to a consideration of some of the tasks in which the S.S. was engaged during the war - tasks which embraced the commission of War Crimes and Crimes Against Humanity described in the Indictment.

The Tribunal has already received in evidence a directive, our Document 447-PS, as Exhibit USA 135. It is a directive issued by the defendant Keitel, on 13th March, 1941, covering some of the preparations made three months in advance for the attack on Russia. Paragraph 2b of that directive, which was read into the record, provided that in the area of operations the Reichsfuehrer S.S. was entrusted with special tasks for the preparation of the political administration, tasks which would result from the struggle about to commence between two opposing political systems.

One of the steps taken by the Reichsfuehrer S.S. to carry out those “special tasks” was the formation and use of so-called “anti-partisan” units. They were discussed by Himmler in his Posen Speech, our Document 1919-PS, at Page 3 of the translation, paragraph 5, Page 57 of the original, last

paragraph. I read those two paragraphs in which he discusses the anti-partisan units:

“In the meantime, I have also set up the Chief of the anti-partisan units. Our comrade S.S. Obergruppenfuehrer von dem Bach is Chief of the anti-partisan units. I considered it necessary for the Reichsfuehrer S.S. to be in authoritative command in all these battles, for I am convinced that we are in the best position to take action against this enemy struggle, which is decidedly a political one. Except where units, which had been supplied, and which we had formed for this purpose, were taken from us to fill in gaps at the front, we have been very successful.

It is notable that by setting up this department, we have gained for the S.S. in turn, a division, a corps, an army, and the next step - which is the High Command of an army or area of a group - if you wish to call it that.” What the S.S. did with its divisions, corps and army out of which the anti-partisan units were formed, is illustrated in the reports rendered as to the activities of such units. I offer in evidence activity and situation report No. 6 of the Task Forces of the Security Police and S.D. in the U.S.S.R., covering the period from the 1st to the 31st October, 1941. It is our Document R-102, and will be found in Volume 2 of the document book. It is Exhibit USA 470. The report shows that so-called “anti-partisan” activity was actually nothing but a name for extermination of persons believed politically undesirable and of Jews. The report is a very carefully organised and detailed description of such extermination. Section I describes the stations of the various Task Forces involved, Section II their activities. The latter section is divided into parts, each dealing with a different geographical region - the Baltic area, White Ruthenia, and the Ukraine.

Under each area the report of activities is classified under three headings:

- (a) Partisan activity and counteraction;
- (b) arrests and execution of Communists and officials; and

(c) Jews. I shall read only a few typical paragraphs, selected almost at random.

First, to show the units involved, I quote the second and third paragraphs of Page 4 of the translation and this also appears on Page 1 of the original:

“The present stations are:

Task Force A: since 7th October, 1941, Krasnogwardeisk.

Task Force B: continues in Smolensk.

Task Force C: since 27th September, 1941, in Kiev.

Task Force D: since 27th September, 1941, in Nikilaiev.

The action and Special Commandos (Einsatz-und-Sonderkommandos) which are attached to the Task Force continue on the march with the advancing troops to the sectors which have been assigned to them.”

I shall now read from the section headed “Baltic area” and subsection labelled “Jews”, beginning with the first paragraph on Page 5 of the translation, Page 8 of the original, second paragraph.

“The male Jews over 16 were executed, with the exception of doctors and the elders. At the present time this action is still in progress. After completion of this action there will remain Only 500 Jewesses and children in the Eastern territory.”

I pass now to the section headed “White Ruthenia,” the subsection headed, “Partisan activity and counteraction.” The paragraph I shall read begins on Page 6, paragraph 5 of the translation, found on Page 11, paragraph 1 of the original. I quote:

“In Wultschina 8 juveniles were arrested as partisans and shot. They were inmates of a children’s home. They had collected weapons which they hid in the woods. Upon search the following were found: 3 heavy machine guns, 15 rifles, several thousand rounds of ammunition, several hand grenades, and several packages of poison gas Ebrit.

Arrests and executions of Communists, Officials and Criminals.

A further large part of the activity of the Security Police was devoted to the combating of Communists and criminals. A special Commando in the period covered by this report executed 63 officials, N.K.V.D. agents and agitators.”

The subsection on arrests and executions of Communists, officials and criminals in White Ruthenia, ends as follows, and I read from Page 6 of the translation, paragraph 14, Page 12 of the original, paragraph 5:

“The liquidations for the period covered by this report have reached a total of 37,180 persons.”

The final item I shall quote is from the section headed “Ukraine,” under the subsection “Jews.” It will be found on Page 8 of the translation, paragraph 10, Page 18 of the original, next to the last paragraph:

“In Zhitomir 3,145 Jews had to be shot, because from experience they have to be regarded as bearers of Bolshevik propaganda and saboteurs.”

This report, the Tribunal will recall, deals with the activities of four Task Forces - A, B, C and D. The more detailed report of Task Force A up to 15th October, 1941, is our Document L-180. It has already been introduced in evidence as Exhibit USA 276 and some paragraphs were read from it. It will be referred to again in the case against the Gestapo. I desire to read only two paragraphs which show the great variety of S.S. components in such a task force.

I might point out to the Court that this elaborately bound report (Major Farr here handed in Document L-180) which the Court has already seen, has a sort of pocket-part supplement, in which appears a break down of the personnel engaged in this action, in graphic form. I shall read the component parts which appear on this chart in a moment. First, I will quote from Page 5 of the translation, fourth paragraph:

THE PRESIDENT: Does that book you just put in refer to the extermination of the Jews in Galicia?

MAJOR FARR: This is the report of Action Group A, an anti-partisan task force which operated in the Baltic States in 1941.

THE PRESIDENT: It is not L-180?

MAJOR FARR: It is L-180.

The passage I will read appears on Page 5 of the translation, paragraph 4, and on Page 12 of the original, first paragraph, I quote:

“This description of the over-all situation showed and shows that the members of the Gestapo (the Secret State Police), Kripo (that is the Criminal Police) and the S.B. (Security Service) who are attached to the Action Group, are active mainly in Lithuania, Latvia, Esthonia, White Ruthenia and, to a smaller part, in front of Leningrad. It shows further that the forces of the uniformed police and the Waffen S.S. are active mainly in front of Leningrad, in order to take measures against the returning population, and this under their own officers. This is so much easier because the task forces in Lithuania, Latvia and Esthonia have at their disposal native police units, as described in enclosure 1, and because so far 150 Latvian reinforcements have been sent to White Ruthenia.

The distribution of the leaders of Security Police and S.D. during the individual phases can be gathered from enclosure 2, the advance and activities of the task force Group and the various task forces from enclosure 3. It should be mentioned that the leaders of the armed S.S. and of the uniformed police, who are on the reserve, have declared their wish to stay with the Security Police and the S.D.”

I quote now from enclosure 1a, which was referred to, showing the constitution of the force. This will be found on Page 14 of the translation. It was the graphic chart which I showed the Court a few moments ago, the translation having simply the break down of the components. I quote:

“Total Strength of Task Force Group A:

Total - 990

Waffen S.S. - 340 - 34.4%

Motor-bicycle Riders - 172 - 17.4%
Administration - 18 - 1.8%
Security Service (S.D.) - 35 - 3.5%
Criminal Police (Kripo) - 41 - 4.1%
State Police (Gestapo) - 89 - 9.0%
Auxiliary Police - 87 - 8.8%
Order Police - 133 - 13.4%
Female Employees - 13 - 1.3%
Interpreters - 51 - 5.1%
Teleprinter Operators - 3 - 0.3%
Wireless Operators - 8 - 0.8%

The Tribunal will observe that in that list there appears the Waffen S.S., the S.D., Criminal Police, the Gestapo and the Order Police, all of which were part of the S.S. or under S.S. jurisdiction.

One final report of anti-partisan activity may be referred to. It is a report from the General Commissar for White Ruthenia to the Reich Minister for Occupied Eastern territories. It is our Document R-135, which I think is in the Document Book under 1475-PS, two document numbers have been combined. I think you will find it under 1475. That document was introduced into evidence by Major Walsh as Exhibit USA 289 and he read into the record the letter from the Reich Commissar of the Eastern territories, transmitting the report in question. The letter he read appears on Page 1 of the translation. I desire to read a paragraph or two from the report itself, which is found on Page 3 of the translation. It deals with the results of the police operation "Cottbus." I quote the first paragraph:

"S.S. Brigadefuehrer, Major General of Police von Gottberg reports that the operation 'Cottbus' had the following result during the period mentioned:

Enemy dead - 4,500

Dead suspected of belonging to bands - 5,000

German dead - 59"

I think it is unnecessary to continue further with the list. I skip to the fourth paragraph of the report:

“The figures mentioned above indicate that again a heavy destruction of the population must be expected. If only 492 rifles are taken from 4,500 enemy dead, this discrepancy shows that among these enemy dead were numerous peasants from the country. The battalion Dirlewanger especially has a reputation for destroying many human lives. Among the 5,000 people suspected of belonging to bands, there were numerous women and children.

By order of the Chief of anti-partisan units, S.S. Obergruppenfuehrer von dem Bach, units of the Armed Forces have also participated in the operation.”

This is as far as I will quote.

The Tribunal will recall that S.S. Obergruppenfuehrer von dem Bach was referred to in the Posen speech by Himmler as “our comrade “ whom he had placed in charge of anti-partisan activity.

The activities I have just dealt with were joint activities, in which the - the “Waffen S.S.” and S.S. Police Regiments, Gestapo, Order Police, were all involved. But these units were also used individually, to carry out tasks of such a nature.

I offer in evidence a letter from the Chief of the Command Office of the Waffen S.S., our Document 1972-PS, as Exhibit USA 471. It is a letter from the Chief of the Command Office of the “Waffen S.S.” to the Reichsfuehrer S.S., dated 14th October, 1941, subject: Intermediate report on civilian state of emergency. I shall read that letter. I quote:

“I deliver the following report regarding the commitment of the Waffen S.S. in the Protectorate Bohemia and Moravia during the civil state of emergency:

All battalions of the Waffen S.S. in the Protectorate Bohemia and Moravia will in rotation be employed on shootings and the supervision of hangings respectively.

Up until now there occurred:

In Prague -

99 shootings.

21 hangings.

In Bruenn -

54 shootings.

17 hangings.

Total - 191 executions (including 16 Jews).

A complete report regarding other measures and on the conduct of the officers, N.C.O.'s and men will be made following the termination of the civil state of emergency."

It is not surprising that units of the "Waffen S.S." and the branch which had thus been employed in extermination actions and the executions of civilians are also to be found violating the laws of warfare when carrying on ordinary combat operations. I offer in evidence a supplementary report of the Supreme Headquarters Allied Expeditionary Force Court of Inquiry re shooting of allied prisoners-of-war by the 12th S.S. Panzer Division in Normandy, France, between 7th and 21st June, 1944. It is our Document 2997-PS, Exhibit USA 472. Extracts from that report consist of the formal record of the proceedings of the Court of Inquiry and the statement of its findings are included in the Document Book under that document number. They have been translated into German. Under Article 21 of the Charter, this Tribunal is directed to take judicial notice of the documents of committees set up in various Allied countries for the investigation of War Crimes, and also of the records and findings of military or other Tribunals of any of the United Nations. This report falls squarely within that provision. Therefore, without reading portions of the document, I shall summarise the findings of the Court of Inquiry which are set out on Pages 8 to 10 of the document. The Court concluded that there occurred between the

7th and 17th June, 1944, in Normandy, seven cases of violations of the laws of war.

THE PRESIDENT: What page?

MAJOR FARR: I am not quoting, I am summarising what appears on Pages 8 to 10 of the translation.

There occurred seven cases of violations of the laws of war, involving the shooting of 64 unarmed Allied prisoners-of-war in uniform, many of whom had been previously wounded and none of whom had resisted or attempted to escape; that the perpetrators were members of the 12th S.S. Panzer Division, the so-called Hitler Jugend Division; that enlisted men of the 15th Company of the 25th Panzer Grenadier Regiment of that Division were given secret orders to the effect that S.S. troops shall take no prisoners and that prisoners are to be executed after having been interrogated; that similar orders were given to men of the 3rd Battalion of the 26th Panzer Grenadier Regiment of the Division and of the 12th S.S. Engineering and Reconnaissance Battalions; and that the conclusion was irresistible that it was understood throughout the Division that a policy of denying quarter or executing prisoners after interrogation was openly approved the S.S. I refer to the execution of Allied flying personnel, of commandos and paratroopers, and of escaped prisoners-of-war who were turned over to the S.D. to be destroyed. Evidence of these actions will be presented in the case against the Gestapo.

Combatants who were taken prisoner encountered the S.S. in another form. In the case against the Gestapo, evidence will be presented of commando groups stationed in prisoner-of-war camps to select prisoners for what the Nazis euphemistically called "special treatment." Finally, the entire control of prisoners-of-war was turned over to the Reichsfuehrer S.S.

I have read in evidence this morning, our Document 058-PS, which provided for the direction of all prisoner-of-war camps by Himmler.

The final, but vital, phase of the conspiracy in which the S.S. played a leading role must be mentioned. The permanent colonisation of conquered territories, the destruction of their national existence, and the permanent extension of the German frontier were fundamental objects of the conspirators' plans.

The Tribunal received evidence, a day or so ago, of the manner in which these objectives were attained through the forcible evacuation and resettlement of inhabitants of conquered territories, confiscation of their properties, denationalisation and re-education of persons of German blood, and the colonisation of conquered territories by Germans.

The S.S. was the logical agency to formulate and carry out the programme. I have read into the record already the numerous statements made by Himmler as to the training of the S.S., which played the role of the aristocracy of the New Europe. He put those theories into practice when he was appointed, on 7th October, 1939, as Reich Commissioner for the Consolidation of German Folkdom. The decree by which he was appointed to that office - our Document 686-PS - has already been introduced into evidence as Exhibit USA 305. I shall not, therefore, read it.

To make and carry out plans for the programme of evacuation and resettlement, a new department of the S.S. Supreme Command was created; Staff Headquarters of the Reich Commissioner for the Consolidation of German Nationality. That is indicated on the chart by the fourth box from the top, on the extreme right-hand side.

The functions of this office are described in the Organisation Book of the N.S.D.A.P. for 1943, our Document 2640-PS, which has already been introduced in evidence as Exhibit USA 323. I shall read the description of the functions of that department appearing on Page 3 of the translation, the last paragraph, and Page 421 of the original.

I quote:

“The main office of the staff of the Reich Commissioner for the Consolidation of German Nationality is entrusted with the whole settlement and constructive planning, and with its execution within the Reich and all those territories under the authority of the Reich, including all administrative and economic questions in connection with the settlement, especially the deployment of manpower for this purpose.”

The colonisation programme had two principal objectives: First, the destruction of the conquered peoples by exterminating them, deporting them, and confiscating their property; second, the settlement of racial Germans on the newly acquired land.

The extermination actions conducted by the S.S., as to which I have just introduced evidence, contributed in part to clearing the conquered territories of persons who were deemed dangerous to the Nazi Plan. But not every undesirable could be liquidated. Mass deportations accomplished the twin purpose of providing labour and of freeing the land for German colonists.

I have already introduced evidence as to the participation of S.S. agencies in deporting persons to concentration camps.

The evacuation and resettlement programme required the use of further deporting agencies. I quote from our Document 2163-PS, the National Socialist Year Book for 1941, Exhibit USA 444. The passage in question appears at Page 3 of the translation, paragraph 5, and at Page 195 of the original. I quote:

“For some time now, the Reichsfuehrer S.S. has had at his disposal an office under the management of S.S.-Obergruppenfuehrer Lorenz, the National German Central Office (Volksdeutsche Mittelstelle - VM). This office has the task to deal with national German questions and to gather the necessary documents.

In addition to the VM, Immigration Centre Offices, with the Chief of the Security Police and the Security Service of the S.S., under the management of S.S.-Obersturmbannfuehrer Dr. Sandberger, and the

Settlement Staff with the Reich Commissioner were created, which, in co-operation with the National Socialist Welfare Organisation and the Reich Railroad Agency, took charge of the re-emigration of national Germans.”

I also offer in evidence the affidavit of Otto Hoffmann, S.S. Obergruppenfuehrer and General of the Waffen S.S. and Police, our Document L-49. I offer it as Exhibit USA 473. Hoffmann was Chief of the Main Office for Race and Settlement in the S.S. Supreme Command, until 1943. This affidavit was taken on the 4th of August, 1945, at Freising, Germany. I shall read paragraph 2 of that affidavit:

“2. The executive power, in other words the carrying out of al [sic] so-called resettlement actions, that is to say, the sending away of Polish and Jewish settlers and those of non-German blood from a territory in Poland destined for Germanisation, was in the hands of the Chief of the R.S.H.A. Heydrich, and later of Kaltenbrunner, since the end of 1942. The Chief of the R.S.H.A. also supervised and issued orders to the so-called immigration centre, which classified the Germans living abroad who returned to Germany and directed them to the individual farms, already freed. The latter was done in agreement with the chief office of the Reichsfuehrer S.S.” Other S.S. agencies were involved in the programme for deportation. The Tribunal has already received in evidence our Document 1352-PS, as Exhibit USA 176. It is a report relating to the confiscation of Polish agricultural enterprises, dated the 22nd of May, 1940, and signed “Kusche.” Portions of that document dealing with the confiscation of Polish agricultural enterprises and the deportation of Polish owners of the land to Germany were read into the record. I shall read only one further paragraph, showing S.S. personnel involved in this action. It appears on Page 2 of the translation, the first full paragraph; and on Page 10 of the original, paragraph 2.

Referring to the deportation of Polish farmers the report says and I quote:

“Means of transportation to the railroad can be provided:

By the enterprises of the East German Corporation of Agricultural Development.

2. By the S.S . N.C.O. School in Lublinitz and the concentration camp of Auschwitz.

These two latter places will also detail the necessary S.S. men for the day of the confiscation, and so forth.”

The extent to which almost all departments of the Supreme Command of the S.S. were concerned with the evacuation programme is shown by the minutes of a meeting on the 4th of August, 1942, dealing with the deportation of Alsatians. It is our Document R-114, and was received in evidence as Exhibit USA 314. I shall read only the list of persons and offices represented at that conference, since the body of the report has been read, in part, into the record.

I start at the beginning of the document, Page 1 of R-114

“Memo on meeting of 4/8/42.

Subject General directions for the treatment of deported Alsatians.

Present:

S.S. Hauptsturmfuehrer Dr. Stier; S.S. Hauptsturmfuehrer Petri; R.R. Hoffman; Dr. Scherler; S.S. Untersturmuehrer Foerster.”

There is a notation next to their names of “Staff Headquarters.”

Then: “S.S. Obersturinfuehrer Dr. Hinrichs, Chief of Estate Office and Settlement Staff, Strasbourg.

S.S. Sturmbannfuehrer Brueckner, National German Central Office (Volksdeutsche Mittelstelle).

S.S. Hauptsturmuehrer Hummisch, Reich Security Main Office (Reichssicherheitshauptamt).

S.S. Untersturmfuehrer Dr. Sieder, Main Office for Race and Settlement (R.U.S.-Hauptamt).

Dr. Labes, D.U.T.”

The S.S. not only destroyed and deported conquered peoples and confiscated their property, but also repopulated the conquered regions with so-called racial Germans. Not all Germans were deemed reliable colonists, however. Those who were not were returned to Germany for re-Germanisation and re-education along Nazi lines.

A typical instance of the fate of such Germans is told in our Document R-112, which has already been introduced in evidence as Exhibit USA 309. It is a decree of the Reich Commissioner for the Consolidation of German Folkdom. That decree, as the Tribunal will recall, dealt with the treatment to be accorded so-called "Polonised" Germans. By the terms of that decree these organisations were charged with the responsibility for the re-Germanisation programme, the Higher S.S. and Police Leaders, and the Gestapo.

I think it is unnecessary for me to quote from that report, since portions have already been read into evidence. I will refer the Court specifically to Section III of the decree, which appears on Page 7 of the translation, and to Section IV of the decree, which appears on the same Page, both of which indicate that the Higher S.S. and Police Leaders and the Gestapo were responsible for the re-Germanisation actions.

In the final state of the process, the resettlement of the conquered lands by racially and politically desirable Germans, still other S.S. agencies participated. I quote again from our Document 2163-PS, the National Socialist Year Book for 1941, Exhibit USA 444. The passage appears on Page 3 of the translation, paragraph 7, and on Page 195 of the original. I quote:

"Numerous S.S. leaders and S.S. men helped with untiring effort in bringing about this systematic migration of peoples, which has no parallel in history.

There were many authoritative and administrative difficulties which, however, were immediately overcome, due to the unbureaucratic working

procedure. This was especially guaranteed, above all, by the employment of the S.S.

The procedure called 'Durchschleusung' takes three to four hours as a rule. The re-settler is passed through eight to nine offices, following each other in a definite order; registration office, card-index office, certificate and photo office, property office, and biological, hereditary, and sanitary test offices. The latter was entrusted to doctors and medical personnel of the S.S. and of the Armed Forces. The S.S. Corps Areas Alpenland, North-West, Baltic Sea, Fulda-Werra, South and South East, the S.S. Main Office, the N.P.E.A. - National Political Education Institution - Vienna, and the S.S. Cavalry School in Hamburg, provided most of the S.S.-Officers and S.S.-Non-Coms who worked at this job of resettlement."

I omit the next three paragraphs and continue with the Year Book's conclusion as to the S.S. participation in the colonisation scheme:

"The settlement, establishment and care of the newly-won peasantry in the liberated Eastern territory will be one of the most cherished tasks of the S.S. in the whole future."

THE PRESIDENT: This might be a good time to break off until 2 o'clock.

MAJOR FARR: Yes, sir.

(A recess was taken until 1400 hours.)

MAJOR FARR: In the course of its development from a group of strong, armed body guards, some 200 in number, to a complex organisation participating in every field of Nazi endeavour, the S.S. found room for its members in high places - and persons in high places found themselves a position in the S.S.

Of the defendants charged in this Indictment, seven were high ranking officers in the S.S. They are the defendants Ribbentrop, Hess, Kaltenbrunner, Bormann, Sauckel, Neurath and Seyss-Inquart. The vital part that the defendant Kaltenbrunner played in the S.S., the S.D. and the

entire Security Police system, will be shown by evidence to be presented at the conclusion of the case on the Gestapo. With respect to the other six defendants whom I have named, I desire to call the Tribunal's attention to the fact of their membership in the S.S. This fact is a matter rather of judicial notice than of proof. Evidence of the fact is to be found in two official publications which I now offer the court. The first is this black book - the membership list of the S.S. as of 1st December, 1936. This book contains a list of the members of the S.S. arranged according to rank. I offer it in evidence as Exhibit USA 474. Turning to Page 8 of this publication we find at line 2 the name "Hess, Rudolf" followed by the notation "By authority of the Fuehrer the right to wear the uniform of an S.S. Obergruppenfuehrer". I now offer the 1937 edition of the same membership list as Exhibit USA 475. Turning to Page 10, line So, we find the name "Bormann, Martin" - and in line with his name on the opposite page under the column headed "Gruppenfuehrer", the following date, 30/1/37.

In the same edition on Page 12, line 56, appears the name "von Neurath, Konstantin", and on the opposite page under the column headed "Gruppenfuehrer" the date "18/9/37". The other publication to which I refer is "Der Grossdeutsche Reichstag" for the fourth voting period, edited by E. Kienast, Ministerial Director of the German Reichstag. This is an official handbook containing biographical data as to membership of the Reichstag. It is Document 2381-PS, and I offer it in evidence as Exhibit USA 476. On Page 349 the following appears: "von Ribbentrop, Joachim, Reichsminister des AuswArtigen, S.S. Obergruppenfuehrer". On Page 360 the following appears: "Sauckel, Fritz, Gauleiter und Reichsstatthalter in Thueringen, S.S. Obergruppenfuehrer". On Page 389 the following appears: "Seyss-Inquart, Artur, Dr. jur., Reichsminister, S.S. Obergruppenfuehrer".

THE PRESIDENT: What was the date of that book?



A Totenkopf Verbände (SS-TV) Scharführer from Mauthausen concentration camp. His collar patch shows the Totenkopf insignia of a concentration camp guard.

MAJOR FARR: This book covers the fourth voting period beginning on 10th April, 1938, covering the period up to 13th January, 1947 - that is, the voting period covers that course of years. The edition, I think, was in 1943. I might point out that the rank of the defendants mentioned in the 1936 and 1937 editions of the membership list of the S.S. may not be the final rank they held. They were "Gruppenfuehrer" at that time, but they were members of the S.S., as shown by the book.

It is our contention that the S.S., as defined in Appendix B, Page 36 of the Indictment, was an unlawful organisation. As an organisation founded on the principle that persons of "German blood" were a "master race", it exemplified a basic Nazi doctrine. It served as one of the means through which the conspirators acquired control of the German Government. The operations of the S.D., and of the "S.S. Totenkopf Verbaende" in concentration camps, were means used by the conspirators to secure their regime and terrorise their opponents, as alleged in Count 1. All branches of the S.S. were involved from the very beginning, in the Nazi programme of Jewish extermination. Through the Allgemeine S.S. as a para-military organisation, and the "S.S. Verfuegungstruppe" and "S.S. Totenkopf Verbaende", as professional combat forces, and the "Volksdeutsche Mittelstelle" as a Fifth Column agency, the S.S. participated in the military preparations for aggressive war, and through its militarised units in the waging of aggressive war in the West and in the East as set forth in Counts One and Two of the Indictment. In the course of such war all components of the S.S. participated in the War Crimes and Crimes against Humanity, set forth in Counts Three and Four of the Indictment - the murder and ill-treatment of civilian populations in occupied territory, the murder and ill-treatment of prisoners of war, and the Germanisation of occupied territories.

The evidence has shown that the S.S. was a single enterprise - a unified organisation. Some of its functions were, of course, performed by one branch or department or office, some by another. No single branch or

department participated in every phase of its activity, but every branch and department and office was necessary to the functioning of the whole. The situation is much the same as in the case of the individual defendants at the bar. Not all participated in every act of the conspiracy - but all, we contend, performed a contributing part in the whole criminal scheme.

The evidence has shown that though the S.S. was an organisation of volunteers, applicants had to meet the strictest standards of selection. It was not easy to become an S.S. member. That was true of all branches of the S.S. We clearly recognise, of course, that during the course of the war, as the demands for man-power increased and the losses of the "Waffen S.S." grew heavier and heavier, there were occasions when men drafted for compulsory military service were assigned to units of the "Waffen S.S." rather than to the "Wehrmacht." Those instances were relatively few. Evidence of recruiting standards of the "Waffen S.S." in 1943, which I quoted yesterday, has shown that membership in that branch was as essentially voluntary and highly selective as in other branches. Doubtless some of the members of the S.S., or of other of the organisations alleged to be unlawful, might desire to show that their participation in the organisation was a small or innocuous one, that compelling reasons drove them to apply for membership, that they were not fully conscious of its aims or that they were mentally irresponsible when they became members. Such facts might or might not be relevant if such persons were on trial. But, in any event, this is not the forum to try out such matters.

The question before this Tribunal is simply this, whether the S.S. was or was not an unlawful organisation. The evidence has finally shown what the aims and activities of the S.S. were. Some of those aims were stated in publications which I have quoted to the Court. The activities were so widespread and so notorious, covering so many fields of unlawful endeavour, that the illegality of the organisation could not have been concealed. It was a notorious fact, and Himmler, himself, in 1936, in a

quotation which I read to the Tribunal yesterday, admitted that, when he said, "I know that there are people in Germany now who become sick when they see these black coats. We know the reason and we do not expect to be loved by too many."

It was, we submit, at all times the exclusive function and purpose of the S.S. to carry out the common objectives of the defendant conspirators. Its activities in carrying out those objectives involved the commission of the crimes defined in Article 6 of the Charter. By reason of its aims and the means used for the accomplishment thereof, the S.S. should be declared a criminal organisation in accordance with Article 9 of the Charter.

The Case for the SS

SATURDAY, 3RD AUGUST, 1946

THE PRESIDENT: I call on Dr. Pelckmann, counsel for the SS.
Now you may call your witnesses.

DR. PELCKMANN: I call the witness Freiherr von Eberstein.

(FRIEDRICH KARL VON EBERSTEIN, a witness, took the stand and testified as follows):

BY THE PRESIDENT:

Q. Will you state your full name?

A. Friedrich Karl Freiherr von Eberstein.

Q. Will you repeat this oath after me:

I swear by God, the Almighty and Omniscient, that I will speak the pure truth and will withhold and add nothing.

(The witness repeated the oath.)

THE PRESIDENT: You may sit down. Proceed.

DR. PELCKMANN: I will be very grateful to your Lordship if the interpretation could be organized in such a way that technical terms and the definitions of service offices and personnel could be rendered, as much as possible, in the original text, the German text, because mistakes could frequently arise in the interpretation. In the SS organization there are so many special definitions which it is difficult to keep apart in an interpretation.

THE PRESIDENT: Well, the Tribunal thinks that it would be convenient to them if both the German denomination and the English were given - if both were given.

DIRECT EXAMINATION BY DR. PELCKMANN:

Q. Witness, were you before and after 1933 a member of the general SS?

A. Yes.

Q. Had you already entered the so-called general SS in 1928?

A. Yes.

Q. Witness, I should like to ask you to pause after each question, just as I am going to try to pause after each answer. In 1928, did the SS have a commander of its own, or was it under the commander of the SA?

A. In 1928 the SS was under the Supreme SA Leadership. The Chief of Staff at that time was a Captain von Pfeffer. Himmler was not yet Reich Leader of the SS. The SS was led by a certain Heid under the Chief of Staff.

Q. In spite of this did the SS already form a special organization?

A. Yes, it was included with the SA under the Supreme SA Leadership.

Q. Did you belong to the general SS only in an honorary capacity, that is to say, in addition to your own profession, or were you a regular member?

A. I belonged to the SS outside my regular profession. I had been a civil servant since 1934.

Q. Well, did you have any salary as an SS leader?

A. No, I had no salary. I lived on my own fortune, and later I received the salary and in addition was reimbursed for my travelling expenses and got an additional expense allowance of 150 marks a month.

Q. If I understood you correctly, you received your salary as a civil servant?

A. As a civil servant, yes, indeed.

Q. And only a certain allowance extra for the expenses you had in the SS service?

A. Yes.

Q. What were the reasons for your joining the SS?

A. At the time, in 1928-1929, I was asked to join the SS because I had already been in the Party for some years, and they considered my services valuable because I had been an officer. I joined the SS very willingly.

Q. Were you in the World War?

A. Yes, I took part in the World War as an officer.

Q. What rank did you hold in the SS in 1930

A. In 1930 I was Sturmfuhrer and Standarten-Adjutant.

Q. What rank did you hold in 1933?

A. In 1933 I was SS Gruppenfuhrer.

Q. Through your activities, did you acquire a good insight into the aims and activities of the SS before and after 1933?

A. Yes.

Q. You are a member of the German nobility, witness?

A. Yes.

Q. Even in democratic countries, it is generally assumed that the nobility belongs to the respectable classes of the population. How does it happen that you became a member of an organization which, according to the allegation of the prosecution, is considered to have been criminal?

A. I was at all times active on behalf of Germany, in keeping with the tradition of my family; and so when I became a member of the Party and of the SS, I felt that I was fulfilling a patriotic duty. Moreover, before 1933 a great number of aristocrats and members of German princely houses joined the SS, such as, for example, the Prince von Waldeck the Prince von Mecklenburg, etc.

Q. After 1933, was this movement even stronger?

A. Yes, after 1933 the Prince of Hohenzollern-Sigmaringen became a member, as well as the Archbishop of Brunswick, Prince Lippe-Biesterfeld, General Graf von Schulenburg and many others.

Q. Do you know that Archbishop Groeber of Freiburg became a sponsoring member of the SS?

A. Yes, I know that.

DR. PELCKMANN: I refer the Tribunal to Document 5, which I shall hand in later.

Q. Do you believe on the basis of your experience at that time that the membership of such prominent personages made an impression on members of all classes in Germany?

A. On the bourgeois classes of our population, most certainly.

Q. I mean, made an impression in the sense that people said, "If such good human material belongs to the SS and works for its aims, then the aims governing the organization must be really good and legal." Do you mean that in this sense?

A. Yes. In any case I am of the opinion, and it was also the opinion of my comrades, that at no particular time could we assume that the organization was following criminal aims.

Q. But did not the SS commit many acts of violence just before 1933, and were not these among its aims?

A. No. As its very name says, "Protection Detachment" ("Schutzstaffel"), this branch of the Party was set up in order to protect the leading personalities. Moreover, I might point out that as early as 1930 Hitler, in the trial of the Reichswehr officers, swore that his revolution would be an intellectual one, and he planned to win supreme power in Germany by legal means. And, indeed, that came about through the elections, and so he became Chancellor of the German Reich.

Q. Please describe the activities of the SS, for instance in the year 1930, when you were in Thuringia; their numbers, the increase in membership and other such details.

A. As I have already said, the SS was set up in 1928 and 1929 in Thuringia. Up to about the time of the Reich Party Rally in 1929, we had in all Thuringia approximately forty-five or fifty SS men. At the Reichsparteitag there were SS men from all Germany, approximately seven

hundred men. In 1930 there were election fights in Thuringia, which necessitated a commitment of a larger number of SS men in order to protect the speakers. There can be no question of any other service besides that of protecting the speakers. There were some roll-calls at which they announced which speakers each SS man had to accompany. This protection was made necessary by the extraordinarily bitter political battle, and one was glad if only the men returned to their quarters in the evening without having been wounded.

Q. How large was the SS in comparison with the other Party organizations at that time? Please speak more slowly. I notice that the interpreters are having trouble in keeping up with you.

A. I beg your pardon. The SS was by far the smallest formation of the Party. According to an order of the Supreme SA Leadership, it could never have more than ten per cent of the numerical strength of the SA.

Q. Where were you in 1933?

A. In 1933 I was in Weimar, Thuringia.

Q. And in what position?

A. As leader of SS Oberabschnitt Mitte, the biggest Oberabschnitt of the SS.

Q. How many SS men were under you at the time?

A. After the seizure of power there were ten or fifteen thousand.

Q. What area did this number cover?

A. The Free State of Saxony, the Free State of Thuringia and the Prussian province of Saxony.

Q. How is the growth of the SS at this time to be explained?

A. The increase can be explained, first, by the fact that the National Socialist Government had come to power; and a large number of people wanted to show their loyalty to the new State. Secondly, after the Party in May, 1933, ordered that no more members would be taken, many wanted to become members of the semi-military formations (Gliederungen), such as

the SS and SA, and through them to become members of the Party later. But then again there were also others who sought the pleasures of sport and the comradeship of young men and were less politically interested. The reasons were very diverse.

Q. But after this period of sudden growth, were the members carefully investigated, and were the old entrance requirements, namely, completely irreproachable conduct, clean way of life, high professional efficiency, made even stricter?

A. Yes, indeed. From about February or March, 1934, Himmler ordered an investigation of all those SS members who had joined in 1933, a thorough reinvestigation which lasted until 1935, and at that time about fifty to sixty thousand members throughout the entire Reich were released from the SS.

Q. Was it necessary to be a Party member in order to be admitted to the general SS?

A. No. Not at all. I already mentioned that before.

Q. But if Party membership was not necessary, can it then be correct that the SS, as the prosecution maintains, was the heart of the Nazi regime, an ideologically conspiratorial group, so that one can conclude from this that the strictest Nazi conditions, Nazi standards, were imposed upon admittance?

A. The heart of the regime, was the political party as such, and this, indeed, lay in the hands of the Hoheitstrager. The leadership of the people was conferred upon the Hoheitstrager by Hitler as a privilege which they had and which they maintained until the end. That was the heart of the regime, In the SS, to be sure, certain standards of selection were adhered to.

Q. But what did this selection refer to?

A. The selection standards required a certificate of good conduct from the police. It was required that people be able to prove that they led a decent life and performed their duty in their profession. No unemployed persons or

people who were unwilling to work were accepted. In this respect, a careful selection was always required.

Q. But were not these principles of selection also extended to so-called racial conditions: height, health, origin?

A. That was also prescribed, yes.

Q. And so, witness, to sum it all up, the selection was not only according to political, but also other circumstances, such as you have described?

A. Yes.

Q. In 1933 and 1934, as an SS Obergruppenfuehrer and leader of the largest Oberabschnitt of the general SS, did you know of any excesses against Jews?

A. No.

Q. During the testimony on another organization here we heard of the so-called boycott of Jews in 1933 and 1934. Did you not, together with your men, participate in this at that time?

A. The SS did not participate in this boycott - I might say these excesses. In Dresden, when I heard about these matters, I held a muster and strictly forbade my men to take part in them.

Q. Did you believe that you were committing a crime against humanity through your efforts to lower the influence of the Jewish people in public life and the economy to the percentage they represented in the total population?

A. No.

Q. Did you want to attain this goal, which according to your ideology was probably in your mind, by the use of violence?

A. No, under no circumstances. Indeed the SS had no influence at all on these matters.

Q. Was not the SS even particularly strict about its idea that points on the Party programme should not be developed by individual actions?

A. Even before 1933 there were extraordinarily strict regulations. These regulations prohibited any individual action. For example, we had a very strict regulation against carrying any weapons, because it would have endangered the political activity of the Party, if the police had found weapons on us at that time. Even later on, Himmler repeatedly issued strict orders not to undertake any kind of action.

Q. Did you believe that by the repression of Jewish influence, which according to the National Socialist principles was constantly in your minds as an ideology, did you believe that thereby you were already making preparations for a new war, and indeed, that by this planned new war the influence of any opposition within Germany would be made impossible?

A. An artificial interpretation, in my opinion. I do not understand it. We were completely surprised by the announcement of the Nuremberg laws in 1935, and as far as the SS was concerned, we thought the Jewish problem had been solved by the State. I remember, too, that at that time Hitler had warned us very strongly against going beyond these laws, and pointed out the tremendous responsibility which was placed in the hands of the German people by them.

Q. Did you perhaps believe that you could do something to prepare a war of aggression if you, or if the Party, or the State, excluded Communists or Socialists from public life?

A. No.

Q. Well, did you ever consider anything like this at all?

A. No. This question appears to me confused, for the circumstances were such that these matters never entered our mind.

Q. What preparations did you notice in the SS for a war of aggression?

A. No preparations.

Q. Was the general SS given military training?

A. No, it was not trained militarily, for sport and small calibre rifle shooting and drill exercises cannot be considered military training. May I

also point out that Himmler forbade me and other SS leaders to participate in troop manoeuvres as reserve officers of the Wehrmacht after 1934-1935. From this alone it is perfectly obvious that no military training was given to the SS men or even planned. Moreover, every SS member, like any other German citizen, had to perform his military service within the Wehrmacht and not in the Waffen SS.

Q. I quote from SS Document 5, which will be submitted later.

“The general SS is entirely an organization of professional men.”

This is a quotation from a publication: “National Political Course for the Armed Forces. Organization and Duties of the SS and the German Police.”

“The greatest duties are imposed upon the man between the ages of 21 and 35, especially up to the age of 25. In these first four years it means marching, competitive games and sports of every kind. Every SS man up to the age of 50 will have to pass some kind of efficiency test annually. Why is this? Men are not very active in their professions; perhaps one-half to three-fifths of those in the SS are city dwellers. The city worker very often has a standing, or in the case of the intellectual worker, a sedentary occupation; in addition to that, there are the bad social conditions in the great cities, and in my opinion this is a grave problem from the military point of view. Men of the twentieth century no longer walk, but travel subway, and so forth.”

I quote further:

“If we are to remain young we must participate in sport. But all this remains only theoretical if the men are not tested every year and a certain degree of ambition is not kindled among them, so that they really participate in sport.”

Witness, does this quotation describe the attitude that was typical of the activity of the SS, especially after 1933?

A. Yes.

Q. Can you remember statements made by Hitler and other Party leaders at gatherings, and also at the Reichstag or in newspapers, which

contained protestations of lasting peace and praise of it, yes, even horror and fear of the ghastliness of war?

A. Yes.

Were further tasks, for example, being in attendance and maintaining order on Reich Party Days? Please describe this.

A. Yes, the SS always had to maintain order at the great mass reviews of the Party. In addition to preserving order, they had to accompany honorary guests and also take care of them. Those were always difficult and tiring days for the men, who also had to participate in the parade.

There is nothing else I can say about this.

Q. Did you have to take care of the honorary guests?

A. Yes, I just mentioned that. On Party Days I myself, as well as other high SS leaders, had the task of showing high-ranking guests around. At one of the last Party Days I personally conducted the British Ambassador.

Q. Where were you, witness, on the 30th June, 1934?

A. In Dresden.

Q. Had you already heard before this date that Roehm was plotting a so-called putsch?

A. Yes, about eight days before 30th June, 1934, I was ordered to Berlin by Himmler, where the latter officially informed me that Roehm was planning a coup d'état and gave me orders to hold my SS men in a state of quiet readiness for an emergency, and to bring them together in barracks when the alarm was sounded. For this purpose he also referred me to the Defence Area Commanders. And so in this way I received this information in advance.

Q. Did the general SS take part in any killings on 30th June, 1934? What do you know about this from your activities at the time?

A. The general SS did not carry out any killings in my territory. Indeed, it remained in barracks on all the decisive days.

Q. Please describe in detail how, in spite of all this, killings still took place, as I am informed.

A. Yes. In the course of that day, 30th June, a certain SS Obersturmbannfuehrer Beutel came to me from the SS with a special order which he had received from Heydrich. He was a young man, this Beutel, and he did not know what he should do, and he came to me to obtain advice from me, as an older man. He had an order in which there were approximately twenty-eight names and a postscript from which it appeared that some of these men were to be arrested and others were to be executed. This document had no signature on it and therefore I advised this Obersturmbannfuehrer to get positive clarification as to what should take place, and warned him emphatically against any rash action. Then, as far as I know, a courier was sent to Berlin and this courier then brought back eight orders of execution which came from Heydrich. The order read approximately as follows:

“By order of the Fuehrer and Reich Chancellor...” and then followed the name of the person concerned “... so and so is condemned to death by shooting for high treason.”

These documents were signed by Heydrich. The signature was undoubtedly genuine and the documents were stamped with the official stamp of the office which Heydrich directed in Berlin; and on the basis of these documents eight members of the SA and the Party too, eight persons in all, were shot by the political police of Saxony in Dresden.

Besides that, a Hitler Jugend leader was shot in Plauen and still another person in Chemnitz. That is what I know about it, at least about my area.

Q. Did you have anything to do with these shootings as leader of the general SS?

A. No, in no way. This order of the State leadership was executed by the political police. I could neither have helped it; nor prevented it.

Q. Did you believe that Roehm was actually planning a treasonable undertaking and that the danger for the German Government and the German people was so immediate that only immediate action, that is to say, the shooting of those guilty, could save the situation?

A. I believed absolutely that a state of national emergency existed. I had to believe so, moreover, after the German police authority, namely, Himmler, had told me so, himself, and had also expressly indicated that I should co-operate, in case of an alarm, with the Defence Area commander, who had a very authoritative office.

Q. Do you remember that immediately after these events the Press published two telegrams from President von Hindenburg, one to the Fuehrer, dated 2nd July, 1934 and the other of the same date to Goering. I quote SS Document 74, which will be handed in later, Hindenburg's telegram to Hitler:

"From the reports which had been brought to me, I see that by your decisive initiative and by your brave personal activity you have nipped all the treasonable activities in the bud. You have saved the German people from a grave danger. For this I express to you my heart-felt gratitude and my sincere respect. With best greetings, von Hindenburg."

The telegram from Hindenburg to Goering:

"For your energetic and successful action in crushing the attempt at high treason, I express to you my gratitude and respect."

Did you read these telegrams at the time in the Press?

A. Yes.

Q. Do you remember the speech which Hitler made before the German Reichstag on 13th July, 1934, in which he also described how an immediate danger had apparently been hovering over Germany?

A. Yes.

Q. Do you remember this - and I will quote only a very brief extract from SS Document 105 -

THE PRESIDENT: Dr. Pelckmann, do you not think that you can summarize this rather more? This witness has said that so far as his district is concerned the SS had nothing to do with the Roehm affair and it does not seem to be necessary to put all the details of it to him.

DR. PELCKMANN: I believe that I have only the following point to add to the Roehm putsch - but perhaps that has already been exhaustively discussed - that, as a matter of fact, even afterwards no suspicion of an illegal action could arise. I wanted to do that by means of this evidence to which I am referring.

THE PRESIDENT: You realize, do you not, as we have said over and over again, that we do not want to have the evidence given before the Commission repeated before us. What we wish is to have a summary and only the most important points dealt with and any new points; and, of course, we wish to see the witnesses in order to see whether they are credible.

DR. PELCKMANN: Yes, I will keep that in mind, your Lordship.

THE PRESIDENT: Perhaps we had better adjourn now.

(A recess was taken.)

THE PRESIDENT: With reference to the applications by Dr. Siemers, both of those applications are rejected. Dr. Siemers, of course, may go and visit Vice-Admiral Buerkner if he wishes to do so, but the particular application which he made in that respect is rejected and so is the other application which he made for certain documents which are in public libraries.

BY DR. PELCKMANN:

Q. One more question about 30th June. Witness, do you recall from Hitler's speech that he said that some innocent persons had been killed and that he promised that these cases would be judged by the regular courts?

A. Yes.

Q. At that time, did you hear the opinion, which you have also reported here today, expressed everywhere in your circle of friends that a state of emergency had existed?

A. Yes, not only in the SS but also from other Germans.

Q. Witness, where were you on 9th November, 1938?

A. On 9th November, 1938, I was in Munich.

Q. What position did you hold at that time in the general SS?

A. In the general SS I was SS Obergruppenfuehrer and head of the SS Oberabschnitt South. In addition, I was Police President of Munich.

Q. Please describe how you first heard of excesses against Jewish businesses during this night?

A. On that day, in accordance with my official duty, I had to accompany Hitler to the meeting of the Old Fighters in the old City Hall. There Hitler was told that Legation Councillor von Rath had died of his injuries. Hitler was very strongly affected by this and refused to speak, as he had always done before. During this dinner he had a very serious discussion with Goebbels. I could not overhear what was being discussed. Shortly thereafter Hitler drove to his apartment. I had to accompany him there on my official duty. Following that I was made responsible for directing the security measures and blocking off traffic on the Odeon Platz. Every year, on the night of 9th-10th November, a meeting was held there and new recruits were sworn into the Waffen SS. When I came to the Odeon Platz, it was reported to me that a synagogue was burning and that the firemen were being interfered with.

Shortly thereafter I received a telephone call from the Chief Magistrate (Landrat) of Munich, who told me that Planegg Castle on the Munich city limits, which belonged to the Jewish Baron Hirsch, had been set on fire by unknown persons. The constabulary asked for assistance. This was about 23.45 hours. At 24.00 hours, Hitler came to the meeting. Since I could not leave my post, I sent the next highest SS leader, Brigadefuehrer Diehm, to

the synagogue to establish order there. Besides that, I sent a police raiding squad under an officer to Planegg in order to ascertain the perpetrators and put out the fire.

Immediately after the roll-call, after the recruits were sworn in, the other higher SS leaders and myself were ordered to report to Himmler. There in the hotel his deputy, Gauleiter Niepolt, informed me that following Hitler's departure from the Rathaus, Goebbels had made a wild speech attacking the Jews. As a result of this, quite a few excesses had occurred in the city. I immediately drove through the city in a car in order to survey the situation. I saw shop windows which had been smashed; a few stores were burning. First, I immediately intervened myself, and then threw all the available police on the streets with instructions to protect Jewish business establishments until further notice.

In addition to that, in co-operation with one of the municipal offices of Munich, I saw to it that the shop windows were boarded up to prevent thefts and so forth.

THE PRESIDENT: Dr. Pelckmann, the witness is saying that he took every step to prevent these excesses. I do not think we want the details. I do not think that we want to hear the details of the steps he took to prevent these things and to keep order. The prosecution can cross-examine if they want to.

DR. PELCKMANN: Mr. President, is it not possible for me to submit to the witness just what he will be asked by the prosecution? I consider it important that the witness himself should -

THE PRESIDENT: The witness has been telling us, for several minutes, what happened on 9th and 10th November, 1938, and we think we know enough. We know the general nature of what he said and we do not want the details of it. If you think that he has not said that the SS did not participate in the excesses, you can ask him that question. He says as far as

he is concerned that he did not take part, but that he tried to stop it. We do not want to hear the details of how he tried to stop it.

BY DR. PELCKMANN:

What orders, witness, did you give to the general SS against participating in the excesses and did the SS subordinate to you obey these orders?

A. I told Brigadefuehrer Diehm that I strictly prohibited any action and I threatened considerable punishment. We in the SS considered this action downright indecent.

Q. Do you know, witness, that an Adjutant Schallermeier, on the night before 10th November, took dictation from Himmler, more or less to the effect that he disliked the whole action as mere propaganda of Goebbels and that Hitler had told Himmler that the SS was to keep out of this action?

A. I do not know this document.

Q. I refer to the Affidavit SS No. 5, which will be discussed later.

You said, witness, that this whole action was detested by the leaders and members of the SS. Do you attribute this to the basic attitude of the SS toward the Jewish question, or do you attribute it, as does a version I have heard from another source, to the feeling that it would be a pity for German national property of such considerable value to be destroyed?

A. I can only say that the SS, just like the Party, was anti-Semitic, but quite apart from any material loss, we considered this indecent and the SS did not participate in it.

Q. One more question on the preparation for wars of aggression: do you know whether the general SS made preparations for the entry into Austria and whether it participated in this entry?

A. No, the general SS did not participate in it. My Oberabschnitt covered the whole German-Austrian border. I would positively have had to know something about it.

Q. Do you know of any other preparation for an attack on Poland, Denmark, Norway, Holland, Belgium, France and Russia, by the general SS?

A. I know nothing of it and the general SS would certainly not have been in any position to attack a foreign State.

Q. After the beginning of the war, did the general SS continue to exist and what task did it then have to fulfil?

A. The general SS, as a practical matter, ceased to exist during the war. Of the 10,000 men who were included in my Oberabschnitt, there were only 7,200 left in the country when the Volkssturm was called up in November, 1944. These 1,200 men had all been assigned to war work at home and were no longer available for SS service. They had been taken into the Wehrmacht and the Waffen SS to the last man.

Q. And so was there any more official business, such as you have described as existing in peace time?

A. No. There were no more available for the tasks which still had to be performed, namely, assisting the Welfare Detachments of the Waffen SS in their work, attending to the wounded in the hospitals and caring for the dependants of our fallen comrades. We did this work with honorary members and even with women.

Q. Were the members of the general SS enlisted instead of the so-called Death's Head units to guard the concentration camps?

A. Yes, a small percentage, just as members of other branches of the Party, members of the Kyffhauser Bund, mostly men who could no longer be used at the front. These men were all liable for duty by virtue of the emergency service order. Toward the end of the war members of all the branches of the Wehrmacht, even citizens of allied States, provided guards for the concentration camps.

Q. I refer in this connection to Documents SS 26 and 28. The prosecution has asserted that the general SS established concentration

camps immediately after 1933, and that killings and atrocities occurred. What do you know about this?

A. The general SS did not establish any concentration camps. The concentration camps were established by the State. To what extent atrocities occurred there I cannot judge.

Oa.	Headquarters	Wehrkreis
Nordost	Konigsberg	I
Ostsee	Stettin	II
Spree	Berlin	III
Elbe	Dresden	IV
Sudwest	Stuttgart	V
West	Dusseldorf	VI
Sud	Munchen	VII
Sudost	Breslau	VIII
Fulda-Werra	Arolsen	IX
Nordsee	Hamburg	X
Mitte	Braunschweig	XI
Rhein-Westmark	Wiesbaden	XII
Main	Nurnberg	XIII
Donau	Wein	XVII
Alpenland	Salzburg	XVIII
Weichsel	Danzig	XX
Warthe	Posen	XXI
Nordwest	Den Haag	(Netherlands)
Nord	Oslo	(Norway)
Ost	Krakau	Generalgouvernement
Böhmen-Mähren	Prague	Böhmen und Mähren
Ostland	Riga	(Ostland)

List of the SS districts together with their headquarters and the corresponding Wehrkreise.

Q. Can you recall the case of an SS leader Engel, in Stettin, in this connection?

A. No, I knew Engel from the SS, but what he had to do with this I do not know. He was in Northern Germany and I in Southern Germany.

Q. In Munich you were Oberabschnittsfuehrer of the general SS; at the same time you were Police President, and from 1939 on you were Higher SS and Police Leader. Please comment as to whether the position of Oberabschnittsfuehrer of the general SS was fundamentally connected: (1) with the position of Police President, and (2) with the positions of the Higher SS and Police Leaders.

A. As a matter of fundamental principle I can say no in both cases. There were exceptions. The Police Presidents of Dusseldorf, Nuremberg and Munich were Oberabschnittsfuehrers at the same time. In the second case I can say that the great majority of Oberabschnittsfuehrers of the general SS from 1939 on, that is from the outbreak of the war, were also Higher SS and Police Leaders. An exception existed in Berlin, where the Higher SS and Police Leader was Heissmeier, who was not Oberabschnittsfuehrer of the general SS.

Q. Is the assertion of the prosecution correct that the Higher SS and Police Leader represented a very close connection between the general SS and the Police?

Number	Oa.	Headquarters	Number	Oa.	Headquarters
I	Sud	Munchen	XXIV	Sudost	Oppeln
II	Elbe	Dresden	XXV	West	Dortmund
III	Spree	Berlin	XXVI	Weichsel	Zoppot
IV	Mitte	Hannover	XXVII	Fulda-Werra	Weimar
V	West	Duisburg	XXVIII	Main	Bayreuth
VI	Sudost	Breslau	XXIX	Sudwest	Konstanz
VII	Nordost	Konigsberg	XXX	Rhein-Westmark	Frankfurt/Main
VIII	Donau	Linz	XXXI	Donau	Wien
IX	Main	Wurzburg	XXXII	Sud	Augsburg
X	Sudwest	Stuttgart	XXXIII	Ostsee	Schwerin
XI	Rhein-Westmark	Koblenz	XXXIV	Rhein-Westmark	Saarbrücken
XII	Spree	Frankfurt/Oder	XXXV	Alpenland	Graz
XIII	Ostsee	Stettin	XXXVI	Alpenland	Salzburg
XIV	Nordsee	Oldenburg	XXXVII	Böhmen-Mähren	Reichenberg
XV	Nordsee	Hamburg-Altona	XXXVIII	Böhmen-Mähren	Karlsbad
XVI	Mitte	Dessau	XXXIX	Böhmen-Mähren	Brunn
XVII	West	Munster	XXXX	Weichsel	Bromberg
XVIII	Elbe	Halle/Saale	XXXXI	Weichsel	Thorn
XIX	Sudwest	Karlsruhe	XXXXII	Warthe	Gnesen
XX	Nordsee	Kiel	XXXXIII	Warthe	Litzmannstadt
XXI	Sudost	Hirschberg	XXXXIV	Nordost	Gumbinnen
XXII	Nordost	Allenstein	XXXXV	Sudwest	Strassburg
XXIII	Spree	Berlin			

List of SS sub-districts.

Each district comprises an average of two or three sub-districts (Abschnitte) distinguished by Roman numerals. The sub-districts are also colloquially referred to by the names of the regions which they comprise or by the location of their headquarters.

A. No. The SS and police were separate organizations and were only connected at the top, in the person of Himmler. The general SS and the police had entirely separate tasks.

THE PRESIDENT: I do not understand what you are saying. I thought you said that you were the head of the SS in Munich and also the Police President.

DR. PELCKMANN: Mr. President, in order to inform the Court -

THE PRESIDENT: Did you not say that you were the head of the SS in Munich and the South and also Police President?

THE WITNESS: Yes.

THE PRESIDENT: And then you say the police and the SS were only united in the person of Himmler.

THE WITNESS: Yes. The sphere of duty of the Higher SS and Police Leader - I have not yet had an opportunity to describe this - he had no power of command over the police, but he was only a representative of Himmler, without any power to issue orders. Thereby -

THE PRESIDENT: Do you mean that you had no power to give orders to the police?

THE WITNESS: In Munich, as Police President, yes. That was my State office, that was my profession. In other towns, however, where the Oberabschnittsfuehrer was not police chief, he could not -

THE PRESIDENT: I am talking about Munich. In Munich you were the head of the SS and you were also Police President?

THE WITNESS: Yes.

THE PRESIDENT: The two organizations were united in you, is that right?

THE WITNESS: In my case, yes, but not generally.

THE PRESIDENT: I am not talking about generally, I am talking about Munich. Then you go on to say that the police and the SS were only

united in the person of Himmler. Those two statements seem to me to be contradictory.

THE WITNESS: I remarked before that only in three cases in all Germany were the Police Presidents at the same time leaders of the general SS. It was an exception in my case, in Munich, in Dusseldorf and in Nuremberg. Otherwise -

THE PRESIDENT: I thought you said Dresden, too.

THE WITNESS: In Dresden I was not in the police.

THE PRESIDENT: I did not say you were. I thought you said the Police President in Dresden was also the head of the SS.

THE WITNESS: No, that must have been misunderstood. I did not say that.

THE PRESIDENT: Very well.

BY DR. PELCKMANN:

Q. Witness, the misunderstanding probably arose because of a third function which has not yet been discussed. Please tell us, did the following three positions have any basic connection with each other: (1) the Police President, (2) the Higher SS and Police Leader, and (3) the SS Oberabschnittsfuehrer? As a matter of fundamental principle, did these three have any personal connection in their structure?

A. No, that in Munich was an exception. In my case they actually coincided but not in other parts of the Reich.

Q. And now please distinguish between Police Presidents and Higher SS and Police Leaders. Please make clear to the Court what the difference is between these two positions.

A. The Police President was a State administrative official, while the position of Higher SS and Police Chief was created only during the war, without his being designated an official authority or a regional commander, for according to the official instructions from the Reich Minister of the Interior, his sole task was to represent the Reichsfuehrer SS and Chief of the

German Police in his Defence Area (Wehrkreis). He did not have any authority to issue orders to the police.

According to the decree of the Reich Minister of the Interior, the Chiefs of the Main Offices of the Regular Police and Security Police remained the superiors of the police. The power to issue orders rested in them. They used their own chain of command, while the Higher SS and Police Leader was secondary to them, without any authority to issue orders to the police.

Q. And now please answer the question: Is the assertion of the prosecution correct, that the Higher SS and Police Leader formed a close connection between the general SS and the police?

A. That was impossible

THE PRESIDENT: You have already asked him that once and he has answered it. Let us go on to the next question.

Q. Is the more sweeping assertion of the prosecution correct, that the general SS and the police officially formed one unit, and so was a State within a State? Is this assertion correct?

A. No.

DR. PELCKMANN: On this question, since I do not want to burden the High Tribunal with details, I shall refer to the depositions SS Affidavits 86 and 88, which I shall hand in later.

Q. You have already said, witness, that the Higher SS and Police Leader had no power to issue orders to the Regular Police or to the Security Police. But did the Higher SS and Police Leader have the power to issue orders to the Waffen SS or to the general SS?

A. The Higher SS and Police Leader had no power to issue orders to the Waffen SS; to the general SS only if he was Leader of the SS Oberabschnitt of the general SS at the same time, not otherwise. I ask to be allowed to add something to my previous answer. The Higher SS and Police Leader had the right, but not the duty, to carry out inspections and he could make suggestions. For my part, I am only in a position to testify on the activities

of the Higher SS and Police Leader in the home territory. What the procedure was in the occupied territories I cannot judge.

Q. To sum up your testimony, could one say that the title “Higher SS and Police Leader” is misleading?

A. Yes.

DR. PELCKMANN: Concerning the testimony of the witness on the position of the Higher SS and Police Leader in the occupied territories with regard to Germany, I refer to Affidavit SS No. 87.

Q. In your capacity as Higher SS and Police Leader, did you ever receive information from the Reichsfuehrer SS on the treatment of enemy flyers when they had to make emergency landings?

A. Yes.

Q. For what purpose did you receive this information and how did you apply it?

A. This announcement said it was not the task of the police to interfere in altercations - I believe that was the expression - between the German population and enemy flyers who had bailed out. Nothing was said about any kind of treatment in this announcement. This announcement was signed by Himmler; and the Higher SS and Police Leaders were ordered by Himmler to inform the commanders of the Regular Police and the inspectors of the Security Police fully of the contents of this announcement.

Q. Had corresponding announcements been sent previously and subsequently to Party offices by the Fuehrer's Party Chancellery, Reich Leader Bormann?

A. Yes, to a great extent. There were announcements in the Volkischer Beobachter, in the paper Das Reich, and besides that, the Gauleiter of my district commented on it. Moreover, the commander of the Regular Police and the Inspector of the Security Police received this order from their superiors as well. I should like to remark that this was so throughout the entire Reich. A similar order was also issued by the Main Office of the

Regular Police, giving the same information to the police offices, as well as by the Main Reich Security Office.

Q. On the basis of these decrees, did the attitude of the police in your district change in any way in cases of landings by enemy flyers?

A. In no way. It was a fundamental principle for us to adhere to the provisions of the Geneva Convention or the Hague Rules on Land Warfare; I do not know which of the two rules is applicable there, but in any case to treat prisoners as was proper.

Q. In spite of this, did the lynching of flyers occur in the district under you?

A. No. Lynchings did not occur, but unfortunately there were some shootings of flyers. It so happened with us that the flyers were taken out of the police stations and then shot. As I have now learned from the Press, trials have been held on this account and the murders atoned for. I have been under arrest now for a year and a quarter and get my information only from the papers. The reports of the trials indicate that the police treated the flyers decently in every respect, bandaged their wounds, and turned them over to the Luftwaffe, as was prescribed.

Q. Was it improper, or a violation of the Hague Rules on Land Warfare, if the flyers were arrested by the police and not by the Wehrmacht?

A. I can give no judgement on these regulations of International Law, as I said before.

THE PRESIDENT: He is not a witness on law. This is a matter for us to judge.

Q. Witness, was there a general order in existence since the beginning of the war that flyers who had made emergency landings had to be taken to a place of safety by the police?

A. Yes. The regulations read as follows: Flyers who had bailed out were to be arrested by the police. Besides that, according to German law, any other citizen was able to do this. Then they were to be taken to the police.

The police stations had orders to inform the nearest Luftwaffe office that the police had enemy pilots and that the Luftwaffe was to come for them. There was a binding rule that these captured flyers were to be turned over to our Luftwaffe offices.

Q. What did you, as Higher SS and Police Leader, have to do with the Gestapo and the SD?

A. Nothing. According to existing regulations, the Inspector of the Security Service informed the Higher SS and Police Leader of what happened in the sphere of the Gestapo or Security Service. These two agencies, the Security Service and the Gestapo, received their orders directly from the, offices concerned, Offices III or IV of the Main Reich Security Office.

Q. And so you had no power to issue orders to the inspectorates of the Security Police and the SD?

A. I believe you made a mistake by saying “inspectorates.” I could not have any power of command over inspectorates.

Q. You had no power to issue orders to the Security Police and the SD?

A. No.

Q. What did you, as leader of the Oberabschnitt of the general SS, have to do with the Gestapo or the SD?

A. As Oberabschnitt leader I did not have anything to do with them.

Q. Was it so throughout the Reich that the leaders of the general SS had no power to issue orders to the Gestapo and the SD?

A. Yes. The general SS had no executive powers and, besides that, it was not allowed to become active or to interfere as an intelligence service, that is, in the sphere of the Security Service.

Q. Did your corps area (Oberabschnitt), or did the divisional areas (Abschnitt), regiments (Standarten) and companies (Sturme) of the General SS, have any official connection with the Gestapo or the SD?

A. No.

Q. As Higher SS and Police Leader, or as Oberabschnitt leader of the general SS, what did you have to do with concentration camps up to September, 1944?

A. Nothing.

Q. Is it true for all the Reich that the Police Presidents, the Higher SS and Police Leaders, and the leaders of the general SS had nothing to do with concentration camps?

A. Yes.

Q. What offices were responsible, first for delivery to and release from concentration camps, and second for the administration of the concentration camps themselves?

A. For admission to and release from a concentration camp, Office IV of the Main Reich Security Office was competent. For the administration and internal affairs of the concentration camps, the Economic and Administrative Head Office of the SS was responsible, Amtsgruppe D, Inspectorate of Concentration Camps.

Q. Therefore, can one conclude from your answer that for killings and atrocities committed against prisoners in concentration camps, neither the Police President of the district in question nor the Higher SS and Police Leader of this district, nor the leader of the Oberabschnitt of the general SS was responsible?

A. None of the offices mentioned was responsible for such things. The concentration camp system was a strictly independent apparatus, with its own chain of command.

Q. Do you know the concentration camp at Dachau, from your own experience?

A. Yes. In the course of the years from 1936 on, when I was transferred to Munich, I often received orders from Himmler that I was to take high German and foreign officials to Dachau to show them the concentration camp. Among others, I took the Royal Yugoslav Minister of the Interior

there; once some high American police officials; a number of commandants of prisoner-of-war camps; high political personages from Italy, and so forth.

Q. Then since you say you had nothing else to do with the concentration camps, that was your only opportunity to obtain permission to enter them? And if I have understood you correctly, you received permission through the Main Reich Security Office just like the guests who were inspecting the camp?

A. Yes; that is, I received orders to go there, and the guests received permission. It was done in the following way: Either Himmler's staff or the RSHA, through the Inspectors of Concentration Camps, informed the competent camp commandant that guests were coming with me as their guide.

THE PRESIDENT: We do not think you need go into the details of the exact way in which the orders went. We do not want the details.

BY DR. PELCKMANN:

Q. Aside from the Rascher case, which I shall discuss in a minute, did you ever have any official reason to visit the camp at Dachau?

A. No.

Q. Did you, perhaps, for other reasons necessarily have the desire to obtain accurate information about conditions in the camp, perhaps because you had heard that mass killings were carried out there, and that the people were starving to death?

A. No, because from what I saw when I visited the camp everything was in order. The kitchen installation was shown, the hospitals, the dental station, the operating-rooms, showers, barracks; and there was also an opportunity here to see numerous prisoners who, in my judgement, in peace time - that is, before 1939 - were in an outstandingly good state of health. After 1939 - that is, during the war - they gave the impression of being normally well fed.

There were also thousands of prisoners, in Munich, for example, who were employed in the removal of bomb debris in public squares and streets and everyone could see the prisoners. From my point of view, on the basis of the knowledge I gained during my visits to the camp, I had no occasion to intervene, and I had no right to do so, either.

Q. On these visits, could you, because of your position, see more or less than the visitors whom you accompanied?

A. I cannot judge. Tours were conducted through the whole camp. For example, in the autumn of 1944, the commandants of prisoner-of-war camps were taken through. They were all experts who knew everything about camps and could go around everywhere, according to their own judgement, and see everything for themselves.

Q. Did you ever hear anything about biological experiments on living persons in the concentration camp at Dachau, and if so, when?

A. Yes. In the spring of 1944, in the course of criminal police investigations against an SS Hauptsturmfuehrer, Dr. Rascher, a physician, and his wife. The Raschers were accused of interchanging children (Kindesunterschabung). That is a word which is very difficult to translate. In our law it means the illegal appropriation of other people's children.

Secondly, Rascher was accused of financial irregularities in connection with the research station at Dachau, where these biological experiments were carried on. This research station was directly subordinate to Himmler, without any intermediate authority.

Q. Did you know anything of those experiments beforehand?

A. No. It was only by accident that I found out about them.

Q. Please describe your investigation so that the Court may see that you did not close your eyes to such things?

A. On the basis of the proceedings which had already been commenced with the Criminal Police in Munich, I forced an entry into the camp at Dachau. I call your attention to the fact that it was by then 1944, and

communications were so bad that I could not wait long for approval. With the help of a teletype message to the inspectorate I learned that I could go with the officials to Dachau in the course of the police investigation if I could obtain their permission. I did not know anything about the biological experiments at that time, but only of the two offences mentioned first. And when in a talk with the camp commandant I merely mentioned the name of Rascher, he, as well as the camp doctor, who had been summoned there, said that they considered Rascher a dangerous, incredible person who was carrying on the most abominable experiments on living human beings. He, Rascher, was vested with full powers from Himmler; and the camp commandant and his personnel were so intimidated that up to the time when I intervened, they did not dare oppose Rascher's activity in any way.

They felt that I would afford them the protection of a high SS leader, and so we came to discuss the experiments. Naturally, I did not release Rascher, who had been previously arrested by the Criminal Police for investigation, and immediately made a personal report to Himmler in his field headquarters in Eigen near Salzburg, and, indeed, I did this without being asked and on my own decision. Himmler had already reproached me bitterly by telephone for interfering at all.

He said I probably wanted to hold a sensational trial. I made the situation clear to Himmler, upon which he was very reserved toward me and said I did not understand anything about these things. He said that Herr Rascher was making very important experiments. He promised he would keep the documents which I had brought and submit the Rascher case to the Supreme SS and Police Court for punishment. The Supreme SS and Police Court was competent, because Himmler was Rascher's superior in this research office and Rascher was immediately subordinate to him. Unfortunately, he was not subject to the jurisdiction of my court.

Q. Were any proceedings brought against Rascher?

A. No.

Q. What became of Rascher?

A. Rascher remained under arrest as before. I kept complaining without interruption for weeks and months to Himmler's office and to the Supreme SS and Police Court. I learned later from the latter office that Himmler had not turned over the files to them at all.

Q. Did you learn later that Rascher was in a concentration camp?

A. Yes. Rascher remained under arrest in the detention house of the SS barracks, Munich-Freimann, apparently until the barracks, at least the detention house was evacuated because of the approach of the American troops. He was then sent to Dachau and I learned from the Press that he must have been shot during the last few days. I cannot give any further information about this, since I was relieved of my post on 20th April, 1945.

THE PRESIDENT: Before we adjourn, perhaps you can tell us how long you are going to be with this witness.

DR. PELCKMANN: I assume forty-five minutes, your Lordship.

THE PRESIDENT: The Tribunal will adjourn.

(The Tribunal adjourned until 5th August, 1946, at 1000 hours.)

MONDAY, 5TH AUGUST, 1946

THE PRESIDENT: Yes, Dr. Pelckmann.

VON EBERSTEIN RESUMED

DIRECT EXAMINATION BY DR. PELCKMANN (counsel for the SS):

Q. Witness, on Saturday you said that the witness Rascher, the accused witness Rascher, had finally been in a concentration camp. Did you approve of this settlement of the affair?

A. No. I was of the opinion that these criminal deeds should be punished by a court trial.

Q. If you did not approve of this settlement without a formal trial, what were you able to do against it?

A. I repeat that I never ceased applying to Himmler's office and I made inquiries of the Supreme SS and Police Court. I may point out that the binding regulations of the Kriegsstrafverfahrungs Ordnung - the War Penal Code - provided that Himmler alone was competent. All I could have done was to make a complaint about Himmler to Hitler, but in view of the existing situation, this was a practical impossibility. Neither an oral nor a written complaint or report from me would ever have reached Hitler.

I may explain that, despite my high position in the State and the Party and the nine years of my official activity in Munich, only on one occasion, for about ten minutes, was I admitted to see Hitler because he wanted a report from me on the cordoning-off measures on the occasion of a big demonstration. That is the only time.



Polish prisoners in Dachau toast their liberation from the camp. Poles constituted the largest ethnic group in the camp during the war, followed by Russians, French, Yugoslavs, Jews, and Czechs.

The only other thing I could have done was to resign. Because of the existing regulations, this would doubtlessly not have been accepted.

A last way out was either to commit dishonourable suicide or to refuse obedience as a soldier, for I was a General of the Waffen SS and was bound by my oath of allegiance to the flag. Then I would have been court-martialed and sent to a concentration camp even at that time.

Q. You just said that you were a General of the Waffen SS. So far you have told the Tribunal only that you were a member of the General SS. When and for what reason did you become a General of the Waffen SS, although up to then you had had nothing whatever to do with that body.

A. In the autumn of 1944 Himmler became Commander-in-Chief of the Reserve Army. When he took over this office, the Prisoner-of-War Department also came under his jurisdiction. In the autumn of 1944 Himmler transferred to the Senior SS and Police Chiefs the responsibility for safeguarding prisoner-of-war camps against mass escapes and attempts from the outside to liberate prisoners. For this purpose, the Senior SS and Police Chiefs were made Senior Commanders of Prisoners of War. According to international regulations regarding prisoners of war, police could not be used to guard them. The Senior SS and Police Chiefs were taken over into the Waffen SS and appointed Generals of that organisation.

THE PRESIDENT: If you could go a little bit faster, if you could speak a little bit faster, I think it would be convenient to the Tribunal.

BY DR. PELCKMANN:

Q. The prosecution construes the fact that Himmler, in September of 1944, as Commander-in-Chief of the Reserve Army, became chief of the Prisoner-of-War Department, to mean that the SS was now in charge of prisoners of war; is that true?

A. That is not true. Apart from the Senior Commander of Prisoners of War, no other member of the SS had anything to do with prisoners of war.

Q. The prosecution further asserts that through the transfer of these prisoner-of-war tasks to Himmler or to the Senior Commander of Prisoners of War in the autumn of 1944, the inhuman treatment and destruction of allied prisoners of war was systematically promoted by the SS. Is that true?

A. No, because the camp commandants of the Wehrmacht continued to be responsible for the running and administration of the camps from the inside. The task assigned to us was security, which began only outside the camp. Moreover, during the visits which I paid to the individual camps during the six months of my competency, I always asked the prisoners-of-war spokesmen themselves whether they had any complaints. Not a single complaint of this kind was made to me by these men.

Q. As Senior Commander of Prisoners of War from the autumn of 1944 on, did you have anything to do with the employment of prisoner-of-war labour?

A. No. The employment of Prisoner of War labour was regulated by a Wehrmacht Staff for the Employment of Labour in co-operation with the provincial labour offices or with those parties needing labour. The Senior Commander of Prisoners of War did not deal with this.

Q. From the autumn of 1944 on, was there any change in your jurisdiction over concentration camps, or your lack of jurisdiction over them, as you described it on Saturday?

A. In the autumn of 1944, as in the case of prisoner-of-war camps, the Senior SS and Police Chief was made responsible for safeguarding concentration camps from the outside, for the reasons just mentioned, with a view to maintaining the security of the State.

Q. Did the RSHA remain responsible for the delivery of prisoners to the camps and did Amtsgruppe D of the Economic and Administrative Main Office remain responsible for the administration of camps?

A. Yes, Amt VI of the RSHA for internment and release, and for the internal administration of the camp and the inspection of concentration

camps, Amtsgruppe D of the Economic and Administrative Main Office.

Q. Can you give an example from the last phase of the war of how difficult it was for you, because of your limited powers, to prevent the death of thousands of concentration camp inmates?

A. Yes. At the beginning of March, 1945, the Gauleiter and Reich Defence Commissar Giesler in Munich ordered me to come to him, and made the monstrous request to me that I should use my influence with the Commandant of Dachau so that when the American troops approached, the prisoners - there were 25,000 people there at the time - were to be shot. I refused this demand with indignation, and I pointed out that I could not give any orders to the Commandant, whereupon Giesler said to me that he, as Reich Defence Commissar, would see to it that the camp would be bombed to bits by our own forces. I told him that I considered it impossible that any German air force commander would be willing to do this. Then Giesler said he would see to it that something would be put into the soup of the prisoners. That is, he threatened to poison them. On my own initiative I sent a teletype inquiry to the Inspector of Concentration Camps and asked for a speedy decision from Himmler as to what was to be done with the prisoners in case the American troops approached. Shortly afterwards the news came that the camps were to be surrendered as a whole to the enemy. I showed that to Giesler. He was very indignant because I had frustrated his plans and because I was of a different opinion. Shortly after we had another clash regarding the defence of Munich, which was completely hopeless. The Wehrmacht Commander was thrown out eight days before me, and on the 20th of April I was also dismissed and all my offices were taken away from me, and I was without power.

THE PRESIDENT: The man you are speaking of, the Gauleiter, was Gauleiter of what district? What Gau?

THE WITNESS: Munich and Upper Bavaria. He was also Bavarian Prime Minister and Bavarian Minister of the Interior and Reich Defence

Commissar.

BY DR. PELCKMANN:

Q. Witness, you have just described the various characteristics of Gauleiter Giesler. According to the structure of the internal administration at the time, did he formally have the right to take the actions which he intended to carry out?

A. Yes. In all questions of the defence of the country, the Reich Defence Commissar could impose his will, on the strength of the existing regulations for the Reich Defence Commissars. In addition, as I have already said, the man was Bavarian Prime Minister, and as such the supreme powers in the province were united in his person.

Q. In some of the final speeches of my fellow counsel for the chief defendants it was said that in the course of the war the SS - it was put in this form - the SS came to represent the government in Germany. Will you please describe in whose hands, according to your opinion and your experience at the time in such a high position, in whose hands the executive power was, from 1933 to 1945.

A. In any case, not in the hands of the SS. During the war, important functions of the Reich were in the hands of the Reich Defence Commissars, who could take part in everything except the Reich Special Administration. I need only refer to the Reich Law of, I believe, the 16th of November, 1942. Moreover, through the influence of Martin Bormann, everything inside the Reich was directed more or less by the Gauleiter and the Reich Defence Commissars. The SS was at no time a decisive factor. The General SS, as I testified on Saturday, no longer existed in the country, and the troops of the Waffen SS were at the front.

Q. One more question, witness. When and in what way did you learn that members of the Jewish population in your district were deported to the East?

A. I believe in 1941 I learned about it by accident, that is, from a report of the Criminal Police of Munich - a report on the following morning - that in the preceding night a number of suicides had taken place in Munich. That attracted my attention as being something quite unusual. I tried to clear up the matter by asking the head of the Criminal Police why there had been these suicides. I believe there were six or eight in one night. He referred me to the Gestapo. Through the Chief of the State Police I learned that the deportation of, I believe, a few hundred Jewish inhabitants of Munich or the district - I do not know whether they were all from Munich - had been ordered for that day. In answer to my question as to where they were to be sent, I was told that it was a resettlement and they would be put to work in the East, and I was told, and it was credible, that the trains had already been arranged for with the Reichsbahn Headquarters and that on instructions from the RSHA to the Gestapo the selection of those concerned had been effected after discussion with the Israelite Community. The persons in question were in possession of certain amounts of money, food cards, and a certain amount of baggage. The train included cars with implements for fortifications, that is, picks, spades, etc. That is what I learned at the time.

Q. How was it that you learned of these things in this way? Should you not have been informed previously in one of your official capacities?

A. I should have been informed, but I can only describe how it actually happened.

Q. Then if I understood you correctly, there was an obligation on the Gestapo offices to inform you, was there not?

A. The Gestapo, no, but the Inspector of the Security Police, yes.

Q. Witness, you have attempted, in answering my questions, to say that you, as Leader of the General SS, committed no crimes as the prosecution asserts - I have given some examples - and that the members of the General SS did not commit such crimes, so that in your opinion one cannot say that the General SS was a criminal organization. But I must now submit to you

that in the course of a prolonged hearing, proof of criminal deeds has been given. I remind you of the thousands of deaths in the concentration camps, of the thousands of Jews shot in the East by Einsatzgruppen and Einsatzkommandos, and I remind you of the gas chambers at Auschwitz. Now I ask you, what did you know of these things up to 1945?

A. I knew nothing. During the whole war, without interruption, I was in Munich, and was never sent to occupied territory. I heard of the horrible mass murders and of the gassings while I was in prison. Today I know that it was impossible for a person who was not initiated to penetrate into the secret places of this extermination camp. There were indications here and there. In my official capacity I now and then saw foreign papers which had been confiscated, but they contained things which, according to my opinion and experience, were not true. The result was that I considered reports on such atrocities to be enemy propaganda. I did not listen to enemy radio broadcasts. As the Tribunal knows, this was forbidden to every German and, since it was our job to punish people who broke this law, I did not think I should do it myself. As for the mass of the men of the General SS, I am firmly convinced that they neither had a part in these atrocities nor did they know about them. I am convinced that in view of the mutual confidence that existed between my men and me, they would certainly have asked me questions when they came to visit me on leave. They would have asked me: "Obergruppenfuehrer, do you know about these things? Is it true?" "Not a single man asked me anything like that.

Q. On the basis of your knowledge of the organization and the facts that you learned after the beginning of the trial or after the collapse, do you maintain that the mass of members of the General SS, for whom you are testifying here, had no part in these crimes?

A. Yes.

Q. At the wish of the Tribunal I have reduced the number of witnesses to the absolute minimum of five. I will only bring such witnesses who,

because of their high position in the organization, can give the Tribunal comprehensive answers on organisational questions, that is, basic questions. Therefore, notwithstanding your high rank, I must ask you how much, according to your conviction, the mass of these many thousands of unknown members of the SS knew? I will submit affidavits, documents and other proof later.

A. If I, in my position and in spite of the general view I had of things inside the country, knew nothing, how could the men at the front or the few who remained at home know about it. The horrible things that happened in the concentration camps and that came to light after the collapse and capitulation I personally can only explain by the general state of things during those last months. People lost their heads; hundreds of thousands of people were on the move; thousands of detainees were brought from the border territory into the few camps which were still available. In Southern Germany, in Dachau, there was an uninterrupted stream of people coming in throughout the winter. There was a typhus epidemic which claimed many victims. I learned of that also only by accident, through the Gauleiter and Reich Defence Commissar asking for workers to clear up after air attacks, and when the camp commander told me on the telephone that these workers could not be supplied because of the typhus epidemic.

Later, I heard at a conference that this epidemic had claimed many victims. Moreover, in the last few weeks, railroad traffic was disconnected. The food supply was completely blocked, and there was already a good deal of hunger. The Commandant told me it was impossible to stop this epidemic as there were no more medical supplies, the pharmaceutical factories having been destroyed too. Only thus can I explain the terrible pictures, about which we all know, and which have been shown here. In any case, the mass of the men of the General SS and the German population could not have known about all this as no one could see over the camps. The General SS,

for which I am speaking here, and the Waffen SS, too, could not have prevented it.



Prisoners' barracks in the Dachau concentration camp, May 1945.

DR. PELCKMANN: Concerning the point which the witness mentioned, about the secret places in the concentration camps and the difficulty of penetrating into them, I refer particularly to the contents of Affidavits Nos. 64 to 67 and 69, affidavits of SS judges who concerned themselves with these things.

I have no more questions, Mr. President. Thank you.

CROSS-EXAMINATION BY MR. ELWYN JONES:

Q. Witness, you denied on Saturday that the SS was the heart of Nazism. Would you agree with me that it was the fist?

A. I did not quite understand. I beg your pardon.

Q. I will put the question to you again. You denied on Saturday that the SS was the heart of Nazism. Would you agree with me that it was the fist?

A. I still do not understand.

Q. I will put the question to you again. I am surprised that you cannot understand the question. I will try again. You denied on Saturday that the SS was the heart of Nazism. Would you agree with me that it was the fist? This, the fist. (*Indicating.*)

A. Oh, the fist. I assume that the prosecutor means to say that with this fist we waged an attack. I can only point out that we, as Schutzstaffel, had to protect leading personalities.

Q. What I meant by the fist was that the SS supplied the brute force of Nazism. Is that not so?

A. I can only repeat what I described. Before 1933 we were a very small group of men who, up to 1933, amounted to about 25,000 to 30,000 in the whole of Germany. Germany had about 65 million people in 1933, but it was in no proportion to the size of the Party, and after 1933 -

Q. You are not answering my question, you know. You are wandering off into details that have no relevance to my question at all. I suggest to you that the killings by the SS on the 30th of June, 1934, were a characteristic use of the SS as the fist of Nazism.

A. The events of the 30th of June, 1934, were, according to my firm conviction and to that of my comrades, the result of a state of emergency, and the orders which were given were adhered to because they were the orders of the head of the State.

Q. You denied on Saturday that the SS had taken any part in the shootings of the 30th of June, 1934. Are you seriously saying to the Tribunal that that is your evidence on that matter?

A. I can only say that in my district the General SS were in the barracks of the Wehrmacht and the police, not on the street, and they did not shoot. The shootings -

Q. So you are saying that it was the Wehrmacht and the police that did the shooting, that it was the forces of General Keitel and the others who were doing the shooting, are you?

A. I did not mention those two names, nor did I say that the Wehrmacht had carried out the shootings. In answer to the question of the defence counsel, I said why I believed there was a state of emergency. I said that I received instructions to establish contact with the Commander of the Wehrkreis, but that does not mean that the Wehrmacht was to supply execution detachments or anything like that, but that they only wanted the Wehrkreis Commander to give his consent to their being billeted in the barracks.

Q. You were a frequent visitor to Dachau, were you not?

A. Yes.

Q. And you saw nothing there except good shower baths, good food, satisfactory sanitation; that was a rest camp? That was your evidence on Saturday about Dachau, was it not?

A. I did not use the words "rest camp." I had been a soldier since 1904 and I had an idea what troop billets and a camp should look like. I can only repeat that everything was scrupulously clean, the sanitary installations which I saw were in excellent order, that the prisoners were well nourished

and, as I saw during the war, on the average their food was like the food of every German outside. I can only say here on oath what I myself saw with my own eyes.

Q. Did you ever ask to see the punishment cells, the completely dark cells where people were kept for three months on bread and water?

A. I can recall that on such a tour through the camp I went through the cells. Unlike the huts, that was a stone building -

Q. If you answer my questions, we shall get on faster.

A. Yes.

Q. Did you ever see the completely dark cells?

A. I must say that one cannot see from the outside whether a cell is dark. Of course, any cell in any prison can be darkened. I did not see any. As Chief of Police I know that for refractory prisoners there are cells without windows. I did not see them, but I will admit that there could have been such cells.

Q. Did you ever ask to see the camp regulations for the punishment of prisoners who committed offences in the camp?

A. No, I did not demand that. The camp commandant made an exhaustive report during the tours. I had no authority to intervene in his affairs before these guests.

Q. I just want you to look at what the regulations were as early as May, 1933.

MR. ELWYN JONES: I put the Document D-922, my Lord, which will be Exhibit GB 548.

Q (*continuing*). Now, these are the regulations for the camp of Dachau which was on your doorstep, you know, and you see in paragraph 3 the punishments that can be imposed on prisoners:

“Cells may be mild, medium, or severe. The maximum term of the first two kinds is eight weeks, and three months for the “severe” cells. This kind of punishment is generally carried out in solitary confinement. In the case of

medium cells, the person undergoing punishment receives a hard bed and only bread and water for food. Severe cells are the same as the medium, but the cell is completely dark.”

And then, if you will look at paragraph 8 of the regulations, you will see that there is given power of life and death to the camp commandant of Dachau and his staff. And paragraph 18 sets out the procedure to be followed in the event of charges of disobedience for which a death penalty is decided by a camp court, which consists of the camp commandant, one or two officers, to be nominated by the camp commandant, and an SS man belonging to the guard personnel.

“The prosecution is also to be undertaken by an SS man belonging to the camp commandant’s office who is to be nominated by the camp commandant. In the case of an even vote, the president of the camp court has the casting vote. The president is the camp commandant at the time.”

Did you know that the power of life and death had been given in that way to these SS men who were running the concentration camps, witness?

A. This document has no heading and no signature. May I point that out? I have not seen these regulations.

Q. I would be obliged if you would answer my question. Did you know that the power of life and death was given to the SS officials who ran these concentration camps, as far back as 1933?

A. I did not know that. I cannot imagine such a thing. I assumed that executions were ordered by higher authorities, but I cannot pass judgement on that.

Q. But you were the Higher SS and Police Chief for many years. You were Himmler’s man, you know, were you not?

A. In my testimony I have repeatedly stated that the Higher SS and Police Chief, the Oberabschnittsfuehrer of the General SS and the Chief of Police; had no influence whatever on internal arrangements in the camp and were not the superiors of the camp commandant.

Q. But whether you had influence or not, you were a confidant of Himmler, his personal representative. Are you saying to the Tribunal that you did not know what the details of Himmler's murderers' organization were?

A. As to these punitive regulations about which I am reproached, and which imply jurisdiction over life and death, I can only say that they were unknown to me, and that Himmler never once spoke to me about these things; nor did I ever receive regulations concerning concentration camps.

Q. Did you ever hear of Oswald Pohl?

A. Yes.

Q. He was the head of the Economics and Administrative Office of the SS, was he not, the WVHA?

A. Yes.

Q. Did you know that this organization, using SS personnel, was employing murder as a means to establish loot on a colossal scale for the benefit of the Waffen SS and other SS organizations?

A. Yes; I heard that from reports on this trial in the camp where I was. I had never heard before that gold teeth, etc. were collected.

Q. Did you know of the great business in death that was bringing millions of marks to the coffers of the Reichsbank? And it was involving numerous departments of the Third Reich.

A. No, I did not know that.

Q. Let me just read to you Oswald Pohl's affidavit, given to Dr. Kempner upon this matter - it is Document 4045-PS, which will be Exhibit GB 549 - so that perhaps your memory may be refreshed. The affidavit reads:

"1. My name is Oswald Pohl. I was born in Duisburg, Germany, on 30th of July, 1892. Since 1st February, 1934, I was chief of the Economics and Administration Main Office of the Elite Guard (Schutzstaffel) (WVHA). I occupied this position permanently until Germany's capitulation.

2. Through my activity as Chief of the WVHA I remember clearly two large business deals between my office and the Reich Ministry of Economics and the Reichsbank of Herr Walter Funk. One deal concerned clothing from persons killed in concentration camps. In this connection Himmler endeavoured to procure through Reich Economics Minister Walter Funk a higher allotment for the SS in the uniform material distribution. The other business deal concerned the business connection of my office with the Reichsbank President, Walter Funk, and the Reichsbank with regard to jewellery, rings, gold teeth, foreign exchange and other articles of value from the possessions of people, particularly Jews, who had been killed in concentration camps.
3. The connection of my office with the Reichsbank with regard to clothing of persons who had been killed in concentration camps was instituted in the year 1941 or 1942. At that time I received the order from the Reichsfuehrer SS and the German Police, Heinrich Himmler, who was my chief, to get in touch with the Reich Economics Minister, Walter Funk, to obtain a higher allotment of material for SS uniforms. Himmler instructed me to demand from Funk that we receive privileged treatment. The Ministry of Economics was receiving from the concentration camps a large delivery of clothing. This clothing had been collected in the extermination camp, Auschwitz, and other extermination camps, and then delivered to the proper office for used clothes.
4. As a result of this order received from my superior, Himmler, I visited the Reich Economics Minister, Funk, in his offices. I waited only a short while in his ante-room and then met him alone in his office. I informed Funk of my instructions that I was to ask him for more material for SS uniforms, since we had been able to deliver such large quantities of old clothes resulting from the actions against Jews. The meeting lasted around ten minutes. It was openly discussed that we perhaps deserved privileged treatment on account of the delivery of old clothes of dead Jews. It was a

friendly conversation between Funk and myself, and he said to me that he would settle the matter favourably with the gentlemen concerned. How the subsequent settlement between Funk and his subordinates and my subordinates was handled in detail, I do not know.

5. The second business deal between Walter Funk and the SS concerned the delivery of articles of value of dead Jews to the Reichsbank. It was in the year 1941 or 1942 after large quantities of articles of value, such as jewellery, gold rings, gold fillings, spectacles, gold watches and suchlike, had been collected in the extermination camps. These articles of value came packed in cases and addressed to the WVHA in Berlin. Himmler had ordered us to deliver these things to the Reichsbank. I remember that Himmler explained to me that negotiations concerning this matter had been conducted with the Reichsbank and Herr Funk. As a result of an agreement which my chief had made, I discussed with Reichsbank Director Emil Puhl the manner of delivery. In this conversation no doubt remained that the objects to be delivered were the jewellery and valuables of concentration camp inmates, especially of Jews, who had been killed in extermination camps. The objects in question were rings, watches, eyeglasses, gold bars, wedding rings, brooches, pins, frames of glasses, foreign currency and other valuables. Further discussions concerning the delivery of these objects took place between my subordinates and Puhl and other gentlemen of the Reichsbank. It was a large quantity of valuables, since the delivery continued for months and years.

A part of these valuables of people killed in death camps I saw myself when Reichsbank President Funk and Vice-President Puhl invited us to an inspection of the Reichsbank vaults and afterwards to lunch. I do not remember exactly whether this was in 1941 or in 1942, but I do remember that I already knew Funk personally at that time from the clothing deals, as I have described above. Vice-President Puhl and several other gentlemen of my staff went to the vaults of the Reichsbank. Puhl

himself led us on this occasion and showed us gold bars and other valuable possessions of the Reichsbank. I remember exactly that various chests containing objects from concentration camps were opened. At this point Puhl or Waldhecker, who accompanied him, stated in my presence and in the presence of the gentlemen of my staff that a part of these valuables had been delivered by our office.



SS and Police Leader Odilo Globocnik was in charge of Operation Reinhard.

After we had inspected the various valuables in the vaults of the Reichsbank, we went upstairs to a room in order to have lunch with Reichsbank President Funk; it had been arranged that this should follow the inspection. Besides Funk and Puhl, the gentlemen of my staff were present; we were about 10 to 12 persons. I sat beside Funk and we talked, among other things, about the valuables which I had seen in his vaults. On this occasion it was clearly stated that a part of the valuables which we had seen came from concentration camps.”

Q. Now, is the material contained in that affidavit news to you, witness?

A. Yes, absolutely.

Q. You had no knowledge of it at all?

A. No.

Q. Did you know that SS personnel were used for the great manhunt of Jewish people all over Europe?

A. I have read reports here during the trial that a certain Eichmann, an SS member, had this task. I never saw Herr Eichmann; I never had anything to do with him. I know the facts from the report in this trial.

Q. Did you know that one of the objects of these manhunts, apart from murder, was to secure loot for the SS and for kindred Nazi organizations?

A. No, I did not know that. I may point out that I was always in the country and never had anything to do with these matters.

Q. Did you know your colleague, Higher SS and Police Chief Globocnik -G-L-O-B-O-C-N-I-K?

A. Yes; I met Globocnik once at a Fuehrer meeting. I talked to him once.

Q. He was a Higher SS and Police Chief like yourself, was he not?

A. No, I do not believe so. At that time he was Oberfuehrer or Brigadefuehrer.

As such he could not be Higher SS and Police Chief. And it was not in Germany. I know that.

Q. We may be at cross-purposes. I am speaking of the year 1943. In that year Globocnik was Higher SS and Police Chief in the operational zone of the Adriatic coast, was he not?

A. That may be; I do not know. It is possible, but not in the Reich.

Q. You have said, as to your own position as Higher SS and Police Chief that you had no power of command over the SS and no authority over the police. That seems to have been a summary of your functions as Higher SS and Police Chief; is that right?

A. Yes. I may remark that I expressly emphasized not only before this Tribunal but before the Commission as well that I cannot testify concerning the powers of the Higher SS and Police Chiefs outside of Germany because their tasks were different.

Q. That is enough. I can assist you in that case. I want you to look at a report of your colleague, Globocnik, on the Action Reinhardt against the Jewish people of Poland.

MR. ELWYN JONES: It is Document 4024-PS, which will be Exhibit GB 550. It is a lengthy report. My Lord, with respect, it does merit the attention of the Tribunal.

BY MR. ELWYN JONES

Q. Witness, you see that it is a report from Globocnik to Himmler, dated 5th January, 1943. The letter starts:

“Reichsfuehrer,

I am taking the liberty of submitting to you the enclosed report on the economic winding up of the Action Reinhardt.”

In the next paragraph:

“A proper winding up and my release are necessary because I carried out this activity within the framework of the SS” - I would like to underline these words, “within the framework of the SS - “and it must therefore be wound up in a proper manner with regard to the competent Reich authorities.”

Then in a later paragraph it goes on:

“The global accounting is composed of two parts:

(1) The economic part of the Action Reinhardt with the subdivisions,

(a) Accounting and delivery of the assets seized and

(b) Accounting of the assets obtained by the work.

(2) The Settlers’ Economic Association whose economic activity also depended on my work, and which is now being transferred to civilian hands.”

Witness, that so-called resettlement was one of the functions of the SS Organization?

A. (No response.)

Q. Then there follows on page 2 of the German text of this report:

“There is one additional factor to be borne in mind, when rendering the global accounts for ‘Reinhardt,’ which is that the vouchers dealing with it must be destroyed as soon as possible.”

Now, the next document, Page 3 of the German text and Page 2 of the English -

THE PRESIDENT: Where is this part about the vouchers being destroyed?

MR. ELWYN JONES: Paragraph 3, my Lord. Globocnik marked it “2,” “The Settlers’ Economic Association,” in the next sentence to that.

BY MR. ELWYN JONES:

Q. Page 2 of the English text is a report on the economic aspect of the Action Reinhardt. There are four copies only of that report. It was “gathered together in the SS Economic and Administrative Head Office.”

It says:

“The entire Action Reinhardt is divided into four parts:

(a) The evacuation itself

(b) The employment of labour

(c) The exploitation of property

(d) Seizure of hidden goods and landed property.”

A. The Evacuation

This is settled and completed.

In this case the prerequisite was to get hold of the people with the small forces available and to cause as little economic damage as possible to war production by methodically appropriate measures.

On the whole this was achieved. Considerable damage occurred only in Warsaw, where, owing to ignorance of the position, the methods applied in the final action were entirely wrong.”

Then I go to paragraph (b), “Employment of Labour”:

“The entire labour was put into closed camps, to which essential war production was transferred.

For this purpose the following conditions had to be created:

(1) Erection of all camps.

(2) Erection of workshops with all the working equipment, such as the installation of machinery, power supply, etc,

(3) The organization of provisions ...

(4) Sanitation and Hygiene.”

Then I want you particularly to notice 5, “Security measures”:

(a) Achieved by adequate security precautions

(b) By organization within the camp

(c) By adequate guarding.

For this purpose, the SS guards were created, the overwhelming majority of whom, led by Germans, carried out their duties satisfactorily.

Their reliability was increased by mixing these guards with Reich German guards from concentration camps.

(d) The prerequisites for a satisfactory security system were created by these camps being taken over by the Concentration Camp Department of the WVHA.

(b) The proper administration and methodical treatment were made possible thanks to the extensive training of the German personnel. It became apparent that the working capacity of the Jews in the camps was constantly increasing.”

And then there is described the creation of a works management under the name of ‘Osti,’ and the German Equipment Works:

“A total of 18 works was established; it was intended to add more. About 52,000 workers were available. These conditions of work made it possible to accept urgent orders both from the Armament Inspectorate and from Speer’s Reich Ministry, and thus replace bombed-out works. The demand from these offices was considerable. ‘Osti’ and the German Equipment Works were run by me, whereas other concerns, such as the Heinkel Aircraft Works, were only looked after by me.”

And then paragraph (c) is on Page 5 of your German text:

“Exploitation of Property.” This had been completed, as shown in Enclosure 2 which I shall come to in a moment.

Paragraph (d): Seizure of Hidden Goods. “The seizure of hidden goods and exploitation of landed property is divided into

(1) Property such as machinery, raw materials, etc., handed over by the ‘Osti’ to Aryans. To date the result is 6.3 million Reichsmarks; a further 7-8 million Reichsmarks are yet to be brought in.”

(2): “Seizure of Jewish claims at home and abroad by the camp inmates being ordered to cede these claims to the ‘Osti’ which then carried out the recovery. The first attempt resulted in a cession of an amount of 11,000,000 Zloty, of which at least half appeared obtainable. However, since it was also possible to discover money that had been smuggled abroad, this action could have brought valuable foreign currency to the Reich.”

(3): “Real estate was transferred to the Real Estate Administration of the Government General for exploitation.”

Then the measures taken were as follows:

“(1) On the 13th of August, 1943, the SS Training Camp of Trawniki was handed over by SS Obergruppenfuehrer Pohl.

(2) On the 7th of September, 1943, in a conference with SS Obergruppenfuehrer Pohl, the taking over of ten SS Working Camps in the Lublin District as subsidiaries of Lublin Concentration Camp was decided on and, in addition, the handing over of further working camps in the Government General. The head of the Lublin Concentration Camp was provided with suitable contracts. The conference was the result of a visit by SS Obergruppenfuehrer Krueger and SS Standartenfuehrer Schellin.”

Then paragraph 3:

“In pursuance thereof, a letter from the Commandant of the Lublin Concentration Camp, dated 14th September, 1943, to the SS Working Camps announced that they had become subsidiaries of the Lublin Concentration Camp.”

And then there follows the sentence:

“The mixing of guards of foreign race with the German Concentration Camp guards from the Reich has also been started.”

And I need not trouble you with the rest of that document.

If you will turn to Page 8 of the German text you will see the “Report on the administrative winding up of Action Reinhardt “ - just two pages, in the English text, from the one that I have just read. The first paragraph described the assets of this Action Reinhardt.

Paragraph 3 of the text says: “The assets I collected were regularly delivered to the SS Economic and Administrative Head Office against receipts, and they in turn passed on the assets to the Reichsbank, the Reich Ministry of Finance, textile concerns, etc.”

And then the next paragraph but one - perhaps it is only fair that I should read the next paragraph: “On the orders of the Reichsfuehrer SS, necessary articles could be removed for the maintenance of persons of the German race. The Reichsfuehrer SS forbade any appropriation for the

purpose of the SS.” But you will see later how this was qualified: “What is remarkable about the accounting is that no hard and fast basis for the amount collected existed, as the collection of the assets was carried out under orders and only the decency and honesty, as well as the surveillance of the SS men used for this purpose, could guarantee a complete delivery.”

Page 9 of the German text - I trust you are following this, witness, because it is not without interest, you know.

Page 9 of the German text sets out the assets, first sums of Reichsmarks and Zloty:

“By far the greater portion was placed at the disposal of the SS Economist in the Government General and the amounts were credited to the Action Reinhardt in Reichsmarks by the WVHA Office by an accounting transaction, and handed over to the Reichsbank.”

Next page, paragraph 2: “Foreign currency in banknotes or coined gold was collected, sorted, and also handed over to the Reichsbank via the WVHA.”

Then Page 10 of your German text: “Jewels, jewellery, watches and suchlike were sorted according to their value and delivered to the WVHA. On orders from this office, watches of non-precious metals were handed over to the troops, spectacles were repaired and placed at the disposal of wounded persons, and articles of no value were principally handed over to Wehrmacht authorities to cover urgent needs.”

Paragraph 4: “Textiles, garments, underclothing, bed feathers and rags were collected and sorted according to their quality. The sorted articles had to be searched for hidden valuables and finally disinfected. More than 1,900 wagons were then placed at the disposal of the authorities named by the Reich Ministry of Economy by order of the WVHA. Out of these stocks not only foreign workers were clothed but a large portion was used for remanufacture. The best garments were separated and, by order of the Reichsfuehrer SS, were used for supplying persons of the German race. Shoes were also sorted according to how far they could be used and then

either given to persons of German race or to concentration camps for supplying inmates, or else taken to pieces and used for wooden shoes for supplying inmates.”

Paragraph 5: “Individual valuables of a special kind, such as stamps, coins and suchlike, were sorted and delivered to the WVHA.”

Paragraph 8 on Page 11 of your German text: “Valuable furniture and household utensils were reconditioned and mainly put at the disposal of settlers of German race. But furniture was also loaned to German and Wehrmacht authorities against an accommodation bill. Inferior goods were either destroyed or given to the population as a reward for good work at the harvest, etc.”

The last paragraph: “The total value of the articles received is, according to the attached list, approximately 18,000,000 Reichsmarks. However, minimum values have been assumed, so that the total value is most likely twice as much, quite apart from the value of the articles obtained which are in short supply, such as textiles, of which alone more than 1,900 wagons have been made available to German industry.”

And then there follows a detail of these assets, on Page 12 of the report:

“Assets delivered from Action Reinhardt. The following assets from the Action ‘Reinhardt’ were delivered to the WVHA, Berlin, for further transmission to the Reichsbank or to the Reich Ministry of Economics:

- (a) Reichsmark sums totalling 53,000,000.
- (b) currency in banknotes from all the principal countries in the world (half a million dollars being particularly worthy of note) to a total value of 1,450,000-odd Reichsmarks
- (c) foreign currency in gold coins to a total value of 843,000-odd Reichsmarks
- (d) precious metals ... to a total value of 5,353,000-odd Reichsmarks
- (e) other valuables such as jewellery, watches, spectacles, etc. (the number of watches being particularly worthy of note - about 16,000 in working

order and about 51,000 requiring repair, which have been placed at the disposal of the troops) value 26,000,000-odd Reichsmarks

(f) about 1,000 wagons of textiles to a total value of 13,000,000-odd Reichsmarks. Grand total, 100,047,000-odd Reichsmarks.

1,000 wagons of textiles and about 50 per cent of the above-mentioned assets - which still have to be counted and valued - are warehoused here. It should be noted that the estimated values were based on the officially established rates of exchange or prices, which, however, would be much higher on the open market, for instance if the precious stones or precious metals were sold abroad, as the investment in articles whose value is not subject to much fluctuation is much greater there than with us. Besides, these sales abroad bring us foreign currency. If these prices were taken as a basis of evaluation here, this was done in order to be able to give a picture of the assets delivered; in general this evaluation is not authoritative. The value of the acquisition lies principally in the fact that such large quantities of urgently needed raw materials can thereby be gained and that, on the basis of the assets obtained, foreign currency can be brought in with which new materials can in turn be bought by Reich authorities.”

Then there follows a list of Jewish property received for delivery up to the 3rd of February, 1943. This is a sort of interim report: Cash in hand: 53,000,000; foreign currency in notes 14,000,000-odd.

Then on Page 15 of the report: Currency in gold coins of various countries of the world, 843,000-odd Reichsmarks; 5,000,000-odd in precious metals.

Then I want you to look at Page 16 of this report, witness:

“Other valuables: gold revolving pencils, 578, gentlemen’s watches, 13,445, gentlemen’s pocket watches, and miscellaneous ladies’ jewellery”; then the item “22,324 spectacles,” and then next but one to that, “11,675 rings”; then all the precious little possessions of these people, necklaces, a mother-of-pearl opera glass, each one itemised down to the very last sordid Reichsmark.

Then on the next page, Page 17, there are other little items of private possessions, making a total of 26,000,000 Reichsmarks.

DR. PELCKMANN: Mr. President, I ask for permission to interrupt the reading of this document for a moment. I object to the use of these documents in the examination of this witness. The witness is to be examined as to his credibility by this prosecution. The submission of these documents does not serve this purpose. In his testimony the witness has said that he had no authority over concentration camp administration. Nevertheless, a document is shown to him concerning penal regulations in a concentration camp. He said he did not know it. Continuing on the same lines, the prosecution attempts to submit a document -

THE PRESIDENT: The Tribunal is perfectly well aware that -

DR. PELCKMANN: I did not understand, Mr. President. I beg your pardon.

THE PRESIDENT: I say the Tribunal is perfectly well aware that this is a new document and they will take into account everything that this witness says.

DR. PELCKMANN: I beg your pardon, Mr. President.

THE PRESIDENT: I say, the Tribunal is perfectly well aware that this is a new document and that the Tribunal will take into consideration everything that the witness says and how far it appears that he has had anything to do with the document in considering the question of his credibility. Your objection is therefore rejected.

We had better adjourn now.

(A recess was taken.)

MR. ELWYN JONES: Reading a number of extracts, the total possessions of Jewish Poles were 26 million. For textiles, there were 462 wagons of rags, 251 wagons of bed feathers, 371 wagons of clothing and underclothing, and then follows a total of over one hundred million Reichsmarks. Pages 18 and 19, you need not trouble with them. Then, you

turn to Page 20 of the German text, and, my Lord, Page 16a of the English text. You see a report on the exports of the slave labour from one of these camps which was set up for the benefit of the German armament industry. There are listed the various details of the work on various manufactured articles. "41 Aryan leading personnel ran 5,445 Jewish workers who worked 1,115,000 working days in the first 10 months of the year 1943, with 31,000,000 Zloty in the bank and till."

Then on the next page, Page 21 of the German text, dealing with the orders given to the slave camps. "83 per cent of the orders were for the Wehrmacht and 17 per cent for civilian concerns."

Next, turn to Page 23 of the German text, Page 19 of the English text. It is the provisional balance sheet of the Action 'Reinhardt' till, Lublin, dated 15th December, 1943. "The following money and values in kind were brought to the German Reich during the course of the Action 'Reinhardt,' Lublin, during the period 1st April, 1942, to 15th December, 1943, inclusive." The Tribunal will see from these figures that, in the meantime, additional loot had been obtained. "Cash in hand, 17,000,000; Reichsmark notes and coins, 3,900,000; to the Reichsbank, Berlin, Zloty notes and coins, 5,000,000; to the SS economist, Cracow, 50,000,000; loans for SS industrial concerns 8,218,000."

Then on the next page there is a table of the foreign currency that was looted currency and then notes, and then there comes, once more, a list of the private possessions of the Poles and Jews that were taken away. Rings, ladies' gold wrist-watches, gentlemen's gold pocket watches, ladies' watches with brilliants, ladies' watches of platinum, 29,391 spectacles, shaving equipment, pocket knives, alarm clocks, sunglasses, silver cigarette cases, clinical thermometers, all detailed to the last mark with a total of 43,662,000 Reichsmarks. Then the industry increased by 9,000,000 more workers. There were 1,901 wagons of clothing, underclothing, bed feathers

and rags to an average value of 26,000,000 Reichsmarks. Total compilation of the total loot up to the end of December, 1943, 178,745,000 Reichsmarks.

Then there follows, on Page 38 of the German text, Page 23 of the English text, an account from the Personal Staff of the Reichsfuehrer SS, which is an account of the national resettlement carried out by uprooting of farms to make room for German citizens, and the clearing of some villages. Paragraph 3, "All Poles, including those who are being brought into the labour programme in the Reich, are to be given certificates confirming what property they have left behind. They will be informed that they will receive a suitable compensation some time in the form of goods or cash."

Page 29 of the German text, 24 of the English text, paragraph 6. "The communications from persons previously sent to the Reich which report that they are getting on well there, and the people's realization of the fact that up to now nobody has been treated like the Jews, have already dispelled the feeling of dread which surrounded this system of grouping."

Then I want you to turn to Page 31 of the German text, and 26 . . . the Tribunal will find it on Page 26 of the English text.

"Measures for the further Transfer of Populations." That carried the heading of the Personal Staff, Reichsfuehrer SS.

"As many quarters express themselves against the transfer of populations on the grounds that it causes too much unrest among the foreigners, thus disturbing production, the following measures have been decided upon:

- (1) Verbal propaganda will spread news about the discontinuation of these transfers.
- (2) No authority will announce anything before the actual moment when the transfer of the population is to be carried out. Planning will be done secretly.

The time for immigration will be fixed to take place after the spring tilling of the fields, so that the foreigners will carry out the cultivation of the land, and the new settlers will be able to make use of the harvest. This has the

advantage that, the conditions being as mentioned above, the foreigners will till their fields in all districts, while the German settlers will not run the danger, in view of the short time available, of being hindered in their spring work.

The transfer of Poles should be carried out in such a manner that the good elements are put, as far as possible voluntarily, in districts cleared by the Security Police, and the transfer should be called 'The Establishment of Security in Partisan Districts.' The bad elements, if they are not employed as auxiliary workers, will be taken away gradually.

The announcement of the time of resettlement will be made only on the day of the transfer of the population.

All the organizations formed by settlers in all the villages will be occupied in advance by the 'Landwacht' (Country Guard) who, having received previous training, are to save the use of our own SS forces."

Then on the next page there follows a memorandum by Globocnik, setting out the details of the technique of resettlement, and I turn to the next document, Page 34 of the German text, 29 of the English text. That is Globocnik's final letter forwarding this report in dealing with the Reinhardt action. It is dated the 4th of November, 1943, when, as the Tribunal sees, Globocnik was the Higher SS and Police Chief in the Operational Zone of the Adriatic Coastal Area. It is addressed to Himmler: "Reichsfuehrer: I concluded Action Reinhardt, which I have been directing in the Government General, on the 19th of October, 1943, and have dissolved all camps."

The last paragraph but three: "During a visit, you, Reichsfuehrer, held out to me the prospect that a few Iron Crosses might be awarded for the special performance of this hard task after the work had been concluded. Please advise me, Reichsfuehrer, whether I may submit suggestions in this connection.

I beg to point out that such an award to the forces of the local SS and Police Chief was authorized for the work in Warsaw, which formed a comparatively small part of the total work.”

In the final document, Himmler sends a letter to Globocnik, saying:

“I express to you my thanks and my acknowledgement for the great and unique services which you have performed for the entire German people by carrying out the Action Reinhardt.”

BY MR. ELWYN JONES:

Q. Witness, do you still say that you had no knowledge of the use of the SS for the collection of loot, for the use of resettlement, for the driving of people from their homes and for the enslavement of Poles and Jews?

[Friedrich Karl Freiherr von Eberstein]

A. No, I had no knowledge of these things.

Q. When did you first discover that Jewish and other people were being exterminated in concentration camps?

A. I already testified to that a little while ago, that these destructive actions were known to me only after I was arrested.

Q. Your connection with the Rascher case in the spring of 1944 must have given you a very clear idea that extermination was going on. I repeat my question: Did not your contact with the Rascher case in the spring of 1944 warn you clearly that extermination and killings were going on in concentration camps?

A. I can refer only to my personal experience and observation, when for the first time, in the case of Rascher, I received proof that these things had occurred. I should like to repeat again that in Reich territory, inside Germany, it was quite impossible to get to know of such things as are revealed by the documents before me.

Q. You arrested Rascher on the charge of fraud, did you not?

A. Rascher, as I already testified on Saturday, was suspected first of all -

Q. Just a moment. Are you going to answer my question directly? Did you arrest Rascher on a charge of fraud?

A. I can only repeat that he was already under arrest, and after we learned of this crime we kept him in custody until the end. It was a coincidence that we were holding him for the other crimes - the two crimes for which he had been charged - and, of course, he was closely guarded.

Q. You knew that Rascher had been carrying out experiments on humans and, in the course of those experiments, that he had been killing them, did you not?

A. That I learned from my conversation with the camp commandant and the physician.

Q. Was Rascher ever charged with murder?

A. I already testified to that on Saturday - unfortunately he was not accused by Himmler. Himmler was the only one who could accuse him, as he was the supreme judge at the Court.

Q. Although you knew in the Spring of 1944 that Himmler's organization was not only criminal but murderous, you continued to serve it for another year?

A. I have already stated the cogent reasons why it was not possible for me to go against the order of my superiors.

Q. When you gave the evidence before the Commission on this Rascher matter, do you remember saying - it is recorded on Page 2216 of the transcript for the 6th of July, 1946 - that when you discovered that Rascher was the responsible person for the experiments on living human beings, you saw to it that this crime was not carried out any more? Did you say that?

A. Yes, indeed - inasmuch as this man was not released from arrest as he otherwise probably would have been - the other cases having been settled in the meantime. There was no longer any danger of his evading justice and he would therefore have had to be released. Instead, we

continued to hold him, because we had received knowledge of this new crime.

Q. Did you take any steps to see to it that Rascher was not succeeded by another SS murderer?

A. I do not understand what you mean by that question.

Q. I will explain myself. The Rascher experiments on human beings were continued in Dachau after Rascher was arrested for fraud, were they not?

A. No; the physician with whom I talked and who was the deputy - he was brought to me by the camp commandant - did not carry out any further experiments of that nature. He was the man who had reported on those things that Rascher had done, and he told me that he refused to go on working.

Q. Are you telling the Tribunal that the experiments and biological research on human beings in Dachau stopped after the dismissal of Rascher?

A. Yes, indeed. I am firmly convinced of that fact.

Q. I want you to look at the Journal of the Ahnenerbe, the Ancestral Research Organization, for 1944, which was kept by Sievers, the Reich Manager of that organization. It is Document 3546-PS, which will be Exhibit GB 51. I have made certain extracts from the relevant passages for the convenience of the Tribunal. Now, if you confine your attention to the extracts, you can check them against the original if you wish to do so. You will see that Rascher's name appears in January, the conferences with him on the 28th of January, on the 29th of January, and then over on the next page in March and then in April there is a conference at Rascher's station.

Now, when exactly was it that you had Rascher arrested, what month was it?

A. What month?

Q. What month was it that you had Rascher arrested?

A. I cannot tell you. But surely you will find it in the files. On Saturday I testified that it was in the spring of 1944. I cannot give you the exact date; however, I do know for certain that at the beginning of May, after the preliminary proceedings of this case were concluded, I went to see Himmler and took the documents, so that these things must have ceased as Rascher was under arrest.

Q. In looking at the extract for May, you will see the conferences of the Reichsarzt SS, in which Hauptsturmfuehrer Dr. Ploetner took part. Did you know that Dr. Ploetner took over from Rascher in Dachau?

A. I do not know the names of the various physicians.

Q. In the entry for the 27th of June, the extract of 31st of May - first, you see that Sievers had a conference with SS Hauptsturmfuehrer Dr. Ploetner - first of all, with regard to Professor Schilling. I take it that you know who Professor Schilling is, do you not? Do you know Professor Schilling?

A. Yes, indeed.

Q. He has recently been condemned to death for his experiments in Dachau, has he not?

A. I read that in the papers.

Q. In May, you see, he was having a conference with Dr. Ploetner; the 27th of June there is a conference with regard to the creation of the scientific research station in the concentration camp. The 25th of July, conference with SS Staf. Mauer, in Oranienburg, about the use of inmates for scientific purposes; and then on the same page, the 26th of July, Hauptsturmfuehrer Dr. Fischer goes on a quick journey through all concentration camps in order to fix finally the persons; and then the 21st of October, the proceeding of research of SS Staf. Prof. Dr. Hirt, and then the final entry for the 23rd of October, 1944, SS Sturmbannfuehrer Dr. Poppendieck, taking over of biological research by SS Staf. Dr. Ploetner in

Dachau. Are you still saying to the Tribunal that all experiments on human beings in Dachau stopped after Rascher went from there?

A. I can only state that the name Rascher does not appear here and that I said under oath that he remained under arrest. I do not know what else went on there. Anyhow, when I learned of the happenings, I did everything to have the matter brought to court. What other experiments were made in the camp, as indicated in this report, I cannot know.

Q. Witness, you told the Tribunal that these experiments did not go on any more after the dismissal of Rascher. You told that to the Commission, did you not, and is it not untrue?

A. I can only repeat that Rascher was under arrest and thus I assumed that these experiments had ceased.

MR. ELWYN JONES: If your Lordship please, I am not attempting to cross-examine this witness with the matters discussed before the Commission. The Tribunal is in possession of all the documents with regard to the general matters I dealt with in the cross-examination.

THE PRESIDENT: Doctor Pelckmann, do you want to re-examine?

BY DR. PELCKMANN:

Q. Witness, the prosecution has submitted to you the regulations for punishment that applied to Dachau Concentration Camp. I should like to ask you once more as a matter of principle, did you have anything to do with the administration of Dachau Concentration Camp or with the bringing in and the release of inmates at this camp?

[Friedrich Karl Freiherr von Eberstein]

A. I can only repeat that neither I nor other Higher SS and Police Leaders had anything to do with sending people to or releasing them from concentration camps. At all times, up to the very end, that was the competence of Amt IV of the RSHA, of the Gestapo.

Q. Did you notice, witness, that on the copy of this Document D-922 these regulations bear no date, nor is there any mention of the validity of

this punishment order?

A. The photostatic copy?

Q. Yes, the first one you received, D-922.

A. Yes, I should like to remark that it has neither heading, nor signature, nor date.

Q. On my copy I can only see that a letter dated 29th May, 1933, written by a Herr Winterberger, was attached. I ask you, witness, were you in Munich on 29th May, 1933?

A. I was in Weimar, in Thuringia, at that time.

Q. The prosecution called you a confidential agent of the SS, and a personal deputy of Himmler. Were you the personal representative of Himmler?

A. I think the statement I made on Saturday must have been misunderstood. I should like to repeat once more: according to the decree of the Reich Minister of the Interior in the year 1938, we Higher SS and Police Leaders were the representatives of the Reichsfuehrer SS and Chief of the German Police. However, as far as their authority and the power as regards orders were concerned, according to the text of this decree, the actual superiors of the police were the Heads of the Main Offices of the Uniformed Police and the Security Police in the Reich Ministry of the Interior. The Higher SS and Police Leaders, according to the wording of the decree, had only the right, not the duty, to carry out inspections, and they were merely permitted to make suggestions.

Q. Did the inspections apply to concentration camps as well?

A. No. The concentration camps were subordinate only to Amtsgruppe D of the Administration and Economics Main Office. They had their own services and their own transport. It was only possible to enter the camp with the permission of that office.

Q. Regarding the Document 4045-PS, affidavit of Pohl, did you ever discuss with Pohl problems concerning the concentration camps?

A. No, never. Only once did I go to see Pohl in his office at Berlin-Lichterfelde. The conversation dealt purely with the acquisition of a piece of ground in Munich for an SS office - an office for the General SS - which was under me. We discussed the buying of this property. I believe this conversation took place in the year 1940. I did not speak to him about concentration camps or any other topics. Besides, I did not know him well and had nothing in common with him.

Q. You saw the reports of Herr Globocnik, Document 4024-PS, and you said that the reports were completely unknown to you. But did you give out similar decrees or decrees which even remotely resembled them. Did you give directions like that to offices subordinate to you or did you receive such directions from offices over you?

A. I have never received orders from the offices over me dealing with actions of that kind. At no time in my official capacity was I given an order like that. These peculiar business deals are new to me, and I should like to repeat that my comrades and I were horrified when we heard about these things in the camps where we were being held.

Q. You just mentioned your official capacity. Did you mean in your capacity as a leader of the General SS as well as Police Chief and Higher SS and Police Leader?

A. Yes. I am including all the offices which I have ever held.

Q. When you look at the documents of Herr Globocnik, can you, from your general knowledge, tell us whether Globocnik was a leader of the General SS and whether in that capacity he might have done these things?

A. Globocnik was an SS leader from Austria, as far as I can remember. As I have already said, I only saw him and talked with him once in my life. As can be seen from this document, he was - the document bears the heading 'Higher SS and Police Leader of "Kustenland"' which would appear to be the Adriatic Coast Region - Higher SS and Police Leader in occupied territory. I have already stated that the activity of the Higher SS

and Police Leaders in the occupied territories differed entirely from the activity of the Higher SS and Police Leaders in the Reich. As far as I am informed, the Higher SS and Police Leaders in the occupied territories received their orders from Himmler according to local conditions. This order or the report on the carrying out of an order, as shown in this document, is misleading and not in line with the tasks which were set us. All these things had to do with economic measures and we in Germany had nothing whatever to do with them.

Q. Did you, as Higher SS and Police Leader, have anything to do in Germany with economic measures?

A. No, nothing at all.

Q. The prosecution asked you if the experiments were continued at Dachau. Here before the Tribunal, and before the Commission, you answered, that according to your conviction, "no." The reason you gave for this was that Rascher was under arrest. Look again at the document submitted under 3546-PS and tell me after what date the name Rascher no longer appears in the conversations with Sievers.

THE PRESIDENT: Can we not see that document for ourselves? You are referring to a document and we can read the document as well as he can.

DR. PELCKMANN: Yes. I am just calling the witness's attention to the moot point in the document, but I will turn to the next question, your Honour.

BY DR. PELCKMANN:

Q. What was your reason for assuming that the experiments were not being continued at Dachau? You said Rascher was under arrest?

A. Before seeing this copy here for the first time, I did not know that besides Rascher this Professor Schilling was active as well. I only learned about that from the proceedings in Dachau while under arrest. At that time I only knew about the research station of Rascher and that there was another man after Rascher, but I did not know his name. It is possible that it was the

man mentioned in the document, namely Dr. Ploetner. That is quite possible. I did not know the name of this man. He was quite horrified when he reported on the activities of his superior, Rascher.

THE PRESIDENT: This is a waste of our time, an absolute waste of time. The witness said there were no further experiments and when the document is put to him, he says he assumes. What is the use of examining him about this?

DR. PELCKMANN: Witness, was there further reason for your assumption that the experiments were not being continued? Was it a result of your first protest to Himmler? Please remember Himmler's reaction to your report, and tell the Tribunal if Himmler's reaction led you to assume that now that he had been detected he would be very careful about continuing these experiments?

THE WITNESS: When I reported to Himmler, he was very angry and he told me that these matters did not concern me. Moreover, that Rascher had rendered services to research and that I did not understand anything about those things. I contradicted him and said it was quite impossible, and Himmler then said he would use the documents and turn the case over to the Higher SS Court. Of course, at that time I could not assume that Himmler knew about the details.

BY DR. PELCKMANN:

Q. Witness, to summarize your statements and the statement you have just made, I should like to ask you in conclusion whether you are today convinced that the mass of the members of the General SS feel that they have been deceived by their highest leaders, who have outrageously abused their conception of loyalty?

A. Yes. I found after discussing this with my comrades, and I talked with many comrades during my arrest, that the mass of those men were bitterly disappointed when they learned of these things. They cannot

comprehend how Himmler could have brought them into contact with such unspeakable things.

I am not only speaking of myself, but of all the men of the SS, and these men kept faith to the very last for the sake of the Fatherland. But the leaders did not keep faith with us. We followed the leaders in good faith and were inspired by pure idealism.

BY THE PRESIDENT:

Q. What did you mean by the statement that the Allgemeine SS had ceased to exist in the last part of the war?

A. Your Honour, I only wanted to make it clear that no General SS were left in the country; it was practically dissolved. For instance, there were 10,000 SS men in my district in peace time and at the end of 1944, when the Volkssturm was called up - that was the first time we made a check on how many men were still there - there were only 1,200 men left, and even these were no longer able to serve, as they had all been brought into work connected with the war. They were working on the railways, in the postal services, on the land. It had to all intents and purposes been dissolved. Even in the offices the Sturmbann, the Standarte, had been dissolved. The following is proof that nothing remained. When a guard of honour was required for a memorial service, it was not even possible to muster one as all the men were with the colours. For all practical purposes, it was dissolved. For our social work we had to call in women, old people and others who were not members of the SS at all but only sympathisers.

Q. Are you saying there were no SS men employed in any of the concentration camps in Germany?

A. No, I do not assert that. There had been members of the SS with the commandants' staffs from the beginning, but they no longer received orders from the General SS. Their names had been struck off our lists, because they were no longer under us. They had worked in the concentration camps, I should say since 1934, and led their own lives there. It would have to be

ascertained how many people like that there were in all. In proportion to the entire membership of the SS it was. only a very small number. I do not know the exact number, but I do not think I am going too far when I say that at Dachau perhaps there were fifty or sixty men on the staff of the commandants.

Q. Are you saying there were fifty or sixty men at Dachau who had ceased to be members of the SS?

A. No, I do not really mean that. They still wore our uniform and were attached to the commandants of the concentration camp, but they actually had nothing in common with us for we hardly had any more contact with them. We only met them occasionally.

Q. Had you no responsibility for them?

A. No, I was not responsible.

Q. Well, another question. Had the Waffen SS any contact with or any relation to the Allgemeine SS except through the Reichsfuehrer SS Himmler?

A. Only at the outset when the Verfuegungstruppe (Emergency Troops) were formed. That was the organization from which the Waffen SS originated. Men who wanted to become soldiers enlisted in the General SS. This is a topic on which a general of the Waffen SS will testify as he is more informed on this point than I am.

We were merely on friendly terms; we visited each other. To issue orders -

Q. After that first stage you agree that the Waffen SS, except through Himmler, had no connection with the General SS?

A. No, your Lordship, they had no connection. They wore the same uniform and politically they held the same views. But, as I have said already, I am not in a position to testify as I never served in the Waffen SS myself, but only received the rank of a Waffen SS general when the Prisoner-of-War Department was turned over to us.

Q. Do you know whether any of the Waffen SS were used in concentration camps?

A. There were special guard troops. In peace time they were the Death's Head Units and they wore their own insignia. Instead of the two lightning flashes which the Waffen SS had on their collars they had a death's head. They were, so to speak, another troop unit and because they were made up of young people they were replaced during the war by older men.

Q. Are you answering my question, which was, were any members of the Waffen SS used in concentration camps? You are telling me about the Totenkopf.

A. During the war those who were wounded, perhaps those members of the SS who were not fit for service at the front, were probably transferred to the guard units. Those who came out of hospital, I assume. If you can call that having a connection, then I suppose it is so.

Q. Turning to another matter, this Gauleiter and Reich Commissar for the Munich and South Bavarian district, how long had he been in office?

A. The Reich Defence Commissar Giesler, I assume that is the man you mean, your Honour, was in office from the summer of 1942 until the end.

Q. And you were in close contact with him, I suppose?

A. Yes, I had to take orders from him regarding matters of home defence. My official relationship, if I may put it that way, as I have already testified, consisted in my being Commissioner of Police and thus a Bavarian administration official, and as Giesler was the Reich Defence Commissar and also Bavarian Minister of the Interior, as such he was my superior.



SS Leibstandarte advances in the Balkans.

Q. Was there any other superior police officer over you?

A. I did not understand the last part of the question. There seems to have been a technical disturbance.

Q. Was there any police officer in Munich over you?

A. No.

Q. What police had you under you?

A. As Commissioner of Police up to 1942 - I was no longer Commissioner of Police after 1942, I was replaced by someone else - up to 1942 I was in charge of the Schutzpolizei (Municipal Police). In every large city of Germany there was a commander of the Schutzpolizei who assisted the Commissioner of Police in the regulation of traffic and other tasks connected with the streets. In addition to that, there was at Police Headquarters a criminal police office. The Commissioners of Police had no contact with the political police, the Gestapo, or the Security Service. These were offices which worked independently.

Q. Was the Gestapo under you?

A. No.

Q. The SD?

A. No.

Q. Well, then, what police were under you?

A. As Commissioner of Police -

Q. There is no answer coming through.

A. As Commissioner of Police I was responsible for the city of Munich and of all other

Q. Will you tell me what police there were under you?

A. Which police were subordinate to me? I have already stated as Commissioner of Police and only as Commissioner of Police I had command of the Schutzpolizei with about 1,700 officials and I could use them just as they were needed in the city. In addition, I had the supervision of the criminal police; I could give directions to them in my capacity as

Commissioner of Police but not in my capacity as Higher SS and Police Leader. My other colleagues who were not Commissioners of Police, who were not higher officials, could only carry out inspections and make suggestions.

It is very hard to explain these matters but those are the facts.

THE PRESIDENT: That is all. The witness can retire.

DR. PELCKMANN: Is it agreeable to you, Mr. President, if I do not call the next witness until two o'clock?

THE PRESIDENT: No, call the witness.

DR. PELCKMANN: I should like to call the witness Brill.

(ROBERT BRILL, called as a witness, testified as follows):

BY THE PRESIDENT:

Q. Will you state your full name, please?

A. Robert Brill.

Q. Will you repeat this oath after me:

I swear by God, the Almighty and Omniscient, that I will speak the pure truth and will withhold and add nothing.

(The witness repeated the oath.)

THE PRESIDENT: You may sit down.

DIRECT EXAMINATION BY DR. PELCKMANN:

Q. Witness, what activity did you carry out which put you in a position to testify here about the affairs of the SS?

A. For twelve years I was with the Waffen SS. In 1933 I started my service as a private in the Leibstandarte. I was made an officer and then for four years, with interruptions due to my service at the front, I was in the Ergänzungs Amt (Training Centre) of the Waffen SS. At the end of the war I was orderly officer in an SS Panzer Division.

Q. What does that mean, "Ergänzungs Amt" of the Waffen SS?

A. The Ergänzungs Amt of the Waffen SS concerned itself with the enrolment and examination of recruits for the Waffen SS as well as with the

military supervision of the members of the Waffen SS. I was the head of a main department in the Ergänzungs Amt and, as such, I dealt with the calling up and military supervision. However, I had sufficient insight into other departments of the Waffen SS so that I can testify here before this Tribunal.

Q. Is it correct to say that you could watch the development as far as figures are concerned in the Waffen SS?

A. Yes.

Q. And now tell the Tribunal as exactly as possible, and pay special attention to the question, were they volunteers or were they drafted into the Waffen SS?

A. The Waffen SS originated from the SS Verfuegungstruppe (Emergency Troops). The Leibstandarte was made up of several hundred men. This had been set up in 1933 as a guard and representative group for the Reich Chancellery.

Owing to the expansion of these representative tasks and guard duties, the Verfuegungstruppe in the years 1934 to 1939 was made up of volunteers from all the levels of the German population. At the beginning of the war the Verfuegungstruppe had about 18,000 men. Service in the Verfuegungstruppe was military service. In addition to that, there was in existence on the 1st September, 1939, the Death's Head Unit which had about 8,000 men. To these two units were added about another 36,000 men between the autumn of 1939 and the spring of 1940. These men had been drafted as an additional force for the police as a result of emergency service measures. These 36,000 men together with the Verfuegungstruppe and the Death's Head Units made up the Waffen SS.

A directive of the High Command of the Wehrmacht in the spring of 1940, which appeared later in December, 1940, as an army service regulation, dealt with the military supervision, composition and recruiting

of the Waffen SS. By the beginning of 1940 we had 100,000 men in the Waffen SS. There were 36,000 who had been drafted and 64,000 volunteers.

THE PRESIDENT: We will recess now.

(A recess was taken until 1400 hours.)

ROBERT BRILL RESUMED

DIRECT EXAMINATION BY DR. PELCKMANN (for the SS):

Q. Witness, you had just said that at the beginning of 1940 the Waffen SS had 100,000 men, 64,000 volunteers and 36,000 draftees. Will you continue about the development?

A. In the same year, 1940, we had 50,000 more recruits for the Waffen SS; 2,000 to 3,000 were drafted and the others were volunteers. In 1941 we received 70,000 men, 3,000 drafted, the rest volunteers. In 1942, 30,000 men were drafted.

THE PRESIDENT: Would it not be quicker and just as accurate to take all these figures as they have been given before the Commission? Presumably they are all in writing in the evidence given before the Commission. It is not necessary to repeat a series of figures of this sort for us. You could pass on to something which would be less statistical.

DR. PELCKMANN: Very well.

Q. From the comparative figures of the draftees and the volunteers, one could say on the basis of your testimony that 40 to 50 per cent of those called to the Waffen SS were drafted forcibly. In your opinion, was this percentage the same at the end of the war?

A. No, by no means. At the end of the war we had about 550,000 men in the Waffen SS. Up to October, 1944, there were 320,000 known casualties including dead, missing, and seriously wounded. Considering that the majority of the dead were our volunteers - I know this from carefully compiled reports on casualties - it results from this that at the end of the war there were more draftees in the Waffen SS than volunteers.

Q. The Tribunal will be interested in knowing where you have received such accurate knowledge.

A. For four years I worked on this material. I prepared statistics and made reports so that I have retained these figures in mind very accurately. In my office in Berlin I handled card indexes, etc. They were there when I left in January, 1945.

Q. Particularly for the years 1943 and 1944 have you made it clear how many men were drafted into the Waffen SS. Statistics for the earlier years, 1940, 1941 and 1942, have not been compiled by the Commissions. Perhaps you could give us examples of how non-volunteers were taken into the Waffen SS at such an early period.

A. Yes. I have already mentioned the 36,000 men who were drafted by emergency decrees. In addition, in 1940 we drafted men from the police to set up our Field Gendarmerie. We drafted men from the Reichspost to secure our Army mail. We drafted the civilian employees of the SS-Verfuegungstruppe (Emergency Troops) in 1941. We frequently drafted personnel for our cavalry units from the army. I recall further that about 800 army men were drafted into the Waffen SS in the summer of 1941. Doctors and technicians also were drafted in 1940 and 1941 - in addition, resettled persons who had become subject to military duty. Yes, even with the resettlement details (Umsiedlungskommandos) we drafted men who did not report voluntarily. In 1942 we deviated considerably from the volunteer basis. About 15,000 racial Germans were drafted into our division "Prinz Eugen," about 10,000 men were drafted from the police and the army for the police division, and 2,000 men of the Reichspost who were with the army as so-called front auxiliaries were drafted into the Waffen SS. They were civilian post-office employees with the army.

Q. Can you recall the transfer, on Hitler's order, of whole formations of the Luftwaffe?

A. Yes, that was particularly in 1944. Also in 1943 units of the Luftwaffe were taken over. I recall, for example, an agreement of Reichsmarschall Goering with our commander, Sepp Dietrich, of March, 1943, when 3,000 men of the Luftwaffe were transferred. In 1944 many men were transferred from the army as well.

Q. And now, to go back to the volunteers, can you tell us anything about the motives for volunteering?

A. Yes. In my office I saw thousands of requests for admission. I can say that up to 1939 the enthusiasm for the SS, for its decent and proper conduct, was the main reason for volunteering, but in addition there were many volunteers for professional reasons.

Q. And how was it after the beginning of the war?

A. After the beginning of the war, the main reason for volunteering was that the men wanted to do their military service in a clean, modern, elite formation. Professional reasons also played a part in volunteering. Very few came to the Waffen SS for political reasons after the beginning of the war: I also know that part of the volunteers were recruited by over-enthusiastic recruiters from the Hitler Youth or the Reich Labour Service. Formally they were volunteers but actually they were under a certain moral pressure. I know this from the letters of complaint which reached the Ergänzungsamt.

Q. Letters from whom?

A. Letters from the parents of these men.

Q. How old were these boys?

Q. They were mostly seventeen. They had volunteered, but their parents did not want them to; influenced by recruiting speeches they had reported against their parents' wishes.

Q. Could a volunteer have recalled his application? Could he have left the Waffen SS? Could he have left, say, because he learned of some crimes, such as are alleged by the prosecution?

A. No, that would not have been possible. If the man once volunteered, there was no way out. Since he was drafted with an order from the Wehrmacht and to avoid punishment he had to report; once he had reported to the troops he was under military law and could not leave the Waffen SS.

Q. Did you receive complaints in this connection? Were there complaints that these volunteers were used for any sorts of crimes?

A. Yes, we did receive complaints, but they were primarily complaints from draftees who thought that the Waffen SS was given especially arduous duties and had exceptionally heavy casualties. For this reason, they wanted to go home again. It also happened that parents were afraid for their boys and also sent letters to us complaining that, the boys were drafted at seventeen on the basis of a Fuehrer order, without the approval of their parents, and asking that they should come back. We paid no attention to these complaints.

Q. As a Member of the Ergänzungsamt no doubt you know something about the process of selection for the Waffen SS; for example, whether purely political reasons were primary for the acceptance of a volunteer or of a draftee.

A. I took part in inspections in the Leibstandarte and later directed them myself. I can say that we were interested only in healthy young men. We did not ask whether a man's father had a Communistic attitude or whether he and his parents were deeply religious. We were interested only in young men of firm character. We accepted a young man who had not been in the SA or the General SS much more readily into the Waffen SS than an older Party member who had a physical disability. We wanted young, clean soldiers. Of course later, in the case of those who were drafted and transferred, the selection was no longer so strict.

Q. For these inspections, did you have any secret instructions concerning the selection?

A. No. Our inductions always took place in public places. I remember that even before the war we held public inductions for the Waffen SS in Danzig, which was still under Polish authority. The manner of making our selections was not kept secret either. Anyone could see it in the recruiting pamphlets, which were published by the million.



*The Grand Mufti of Jerusalem, Haj Amin al-Husseini inspects Bosnian Waffen SS recruits,
November 1943.*

Q. Did members of foreign countries serve in the Waffen SS besides Reich German soldiers?

A. Yes. Our good racial Germans should be especially mentioned. They formed the majority of these alien soldiers. The Reich had reached agreements and State treaties with the countries that these people were to do their military service in the Waffen SS. From the Germanic countries we took almost exclusively volunteers for our "Wiking" division and for the other Germanic units.

In 1943 - and still more in 1944 - we also set up alien units. Most of these people were volunteers, but many of them were drafted on the basis of the laws of their own countries. Among them, people of completely different racial, religious, and psychological backgrounds came into the ranks of the Waffen SS, and they were allowed to retain their own characteristics.

Q. Please give a brief survey of how great the number of such foreigners was, since it is important for the accusation that supposedly a unified ideological unit had been set up here.

A. I can give this set-up from the end of 1933 to the end of 1934.

Q. You mean 1944, do you not?

A. Certainly, 1944. I beg your pardon. Up to the end of 1944 we had drafted 410,000 Reich Germans, 300,000 racial Germans, 150,000 foreigners, and about 50,000 Germanic soldiers in the Waffen SS.

Q. I add a question of the President to the previous witness, von Eberstein. You surely know the relationship of the General SS to the inductions into the Waffen SS. For example, was a Fuehrer of the General SS taken into the Waffen SS while keeping the same rank?

A. One cannot speak of a transfer in a military sense. The General SS was a voluntary organization. The Waffen SS was considered a component part of the Wehrmacht. Up to 1942 a member of the General SS, if he felt drawn to the Waffen SS, first had to volunteer. Only after 1942 could we

take the men without their volunteering and this only on account of the difficulty in getting replacements. I would emphasize that it was quite possible for a man of the General SS to have volunteered prior to 1942 and to have been rejected because of physical disability. After 1942, of course, we no longer rejected members of the General SS, but it was also quite possible that a member of the General SS could do his military service in other sections of the Wehrmacht, and I estimate that the majority of the General SS was taken into the Wehrmacht at the beginning of the war. A Fuehrer of the General SS, unless he already had military rank in the Wehrmacht, was taken into the Waffen SS as a common soldier. On the other hand, officers of the Wehrmacht were taken into the Waffen SS with equivalent rank.

Q. Then would you conclude, witness, that activity in the General SS was in no way evaluated as pre-military training, because a member of the General SS had to do military service in the Waffen SS or the Wehrmacht from the beginning just as a non-member did?

A. Yes, of course. That is the case.

Q. Is it true that in Germany the Waffen SS was considered as the fourth branch of the Wehrmacht and not, as the prosecution says, a Nazi troop?

A. Yes. That can be emphasized. Regarding my sphere that can certainly be said. Only the selection was carried out according to SS directives, while acceptance for the Waffen SS depended on the approval of the Wehrbezirksskommando. Induction into the Waffen SS took place with the induction order of the Wehrmacht. The volunteer contingents of the Waffen SS were prescribed by the High Command of the Wehrmacht, and forcible inductions always followed on the basis of the orders of the High Command of the Wehrmacht. One can also say that we had no connection whatever with the Party, for the Party gave us no orders.

The few Party members who were in the Waffen SS paid no Party dues for the period of their service. They did not receive awards of the Party. The

whole replacement and supervision of the Waffen SS was effected according to regulations of the High Command of the army, as specified in the Army Service Regulation 8115. Since service in the Waffen SS and in the army were practically on the same footing we finally carried out in the autumn of 1944 the long-sought merger of the SS replacement offices with the army recruiting offices.

Q. Going back to the question of the President to the witness von Eberstein, I should like to ask you something about the composition of the guard personnel of the concentration camps. Is it true, as the prosecution asserts, that the General SS during the war took over the guard duty at the concentration camps?

A. In no way can that be said. The 8,000 men of the Totenkopf formation, of which I spoke previously, at the beginning of the war consisted only in part of members of the General SS. In October, 1939, when the SS Totenkopf division was set up, these men were transferred to this front unit. These men were replaced by emergency service draftees. They included, I should perhaps say, 3,000 men of the General SS. But these men were taken from the General SS by the Emergency Service Regulation, which could equally have been applied to the induction of other men, which was done in part; for example, men of the Reichskriegerbund and of the Kyffhauserbund. During the whole war the General SS did not replace the guards for concentration camps unless one or another SS man who was incapable of emergency service at the front was transferred there.

Q. Please tell us briefly what the purpose of the so-called Emergency Service Regulation was and to whom it could be applied.

A. The Emergency Service Regulation was, in my opinion, and as far as I am informed, a regulation of the Reich according to which, in times of emergency, any member of the German Reich could be inducted for special service to the Reich. I have already mentioned this morning that 36,000 men were taken from the General SS on the basis of this regulation by the

Reich Ministry of the Interior. The Reich Ministry of the Interior increased its contingent, as far as I know, to 1,000,000 men for police reinforcements and reserves, including these 36,000 men of the General SS.

Q. The Emergency Service Regulation and its effect are made clear by Document SS-26. Can you tell us who mainly took over the guarding of concentration camps during the war?

A. For the most part during the war, racial Germans and members of the German Wehrmacht guarded the concentration camps. Let me explain this briefly. In 1940 and 1941 the guard personnel of the concentration camps were only replaced to a small extent. For the most part, there were members of the Kyffhauserbund, the Reich Warriors League (Reichskriegerbund), who came partly as inductees and partly as draftees of the emergency regulations. In 1942 racial Germans and volunteers from the Reich who did not, however, volunteer as guards for concentration camps, but for the Waffen SS, and who, because of unsuitability for service at the front, could not be put in the Waffen SS, were made guards. In 1943, the replacements were done similarly. That year, too, another contingent of veterans was drawn in, and in 1944 the last young men among the concentration camp guards were to be sent to the front. In this year the great majority of the guards in the concentration camps were members of the German Wehrmacht. I know that the OH reached an agreement with the inspectorate of the concentration camps that the army would take over the guarding. I myself saw the order. 10,000 men were mentioned in it.

Q. Can you give us figures on the concentration camp guards?

A. Yes. In the SS Main Office, the army had supervision of the guards at the concentration camps.

Q. What does “Wehrüberwachung” mean?

A. That means that every man was included in a card index so that in case he was transferred, the office concerned would know exactly where the man was and when he would be available again. As I was saying, the record

was kept of these men at the SS Hauptamt. Therefore, I know that about 7,000 such men were racial Germans, that about 7,000 were from the army and some from the Luftwaffe, and that there were 10,000 men who had volunteered for the Waffen SS, but as a result of unsuitability for front service were simply transferred to the guard personnel of concentration camps. This included the Kyffhauser members whom I have already mentioned, also SA members, non-party people, and so forth. About 6,000 men at the end of 1944 were from the Notdienstverordneten (Emergency Services draftees) and the old Frontkämpferverbänden (Veterans Organizations) and a few injured members of the Waffen SS.

Q. What do you mean by that?

A. That means people who had been wounded at the front and were no longer able to do military service at the front, but were still suitable for guard duty.

Q. Now can you tell us whether the majority of the men, no matter where they came from, were volunteers or whether they were drafted?

A. No one ever volunteered for guard duty at concentration camps. The racial Germans as well as the Reich Germans who were used as guards were assigned there. The members of the Wehrmacht also, as far as I know, did not volunteer for this service but were sent there by order.

Q. Witness, what do you know about the administration of concentration camps?

A. The highest administrative authority for concentration camps was the Inspectorate KL (concentration camp). This Inspectorate KL was in 1939 or at the beginning of 1940 in the hands of the General Inspector for the Totenkopfverbände. In 1942 the Inspectorate KL was transferred to the WVHA as Amtsgruppe D (Main Office for Economics and Administration).

I had no insight into the internal affairs of this Amtsgruppe such as I had with many other SS agencies. In the first place, this Amtsgruppe D was far away from us in Berlin. In addition, with the exception of the

assignment of a few men, which was effected by telephone, we had no personal contact.

Q. Can you, on the basis of your long service in the Waffen SS and your position, give any information as to whether members of the Waffen SS in general had the opportunity to learn anything about the crimes which are now charged against the SS as a whole, or whether you yourself could learn anything of the same?

A. Hundreds of thousands of people, mostly young men, were inducted into the Waffen SS. These people were 13, 14, perhaps 16 years old at the beginning of the war. When they came into the Waffen SS they were only used at the front. If they went home for a few days on leave they did not worry about politics or enemy propaganda, but only thought of seeing their families. Tens of thousands of wounded men in hospitals had only one desire - to regain their health. They did not listen to the enemy radio either so that they could not have learned anything. I talked to many of these men, and I know they were interested only in their military service. Only one per cent of those inducted were employed in the Waffen SS, in the offices and agencies of the Waffen SS. Very few of these were in a position to learn anything. However, they did not and would not tell us anything about what kind of service they had there anyway. In every office of the Waffen SS and SS as a whole there was a poster with an order from the Fuehrer which read, "You must know only as much as belongs to your official duties, and concerning what you learn, you must be silent."

Q. Was the reason for this Hitler order a military one?

A. I believe this order of the Fuehrer was in effect for the whole of the Reich. It applied as well to the troops as to the various offices.

Q. The troops - do you mean the Wehrmacht?

A. Yes, the Wehrmacht.

Q. Perhaps you know something about another point of the Indictment. When you were still with the staff of the Leibstandarte, did you learn

anything, for example, about the proposed invasion of Austria?

A. Among the troops, it is true that the soldier always knows the least. The Leibstandarte was no exception. I recall very well the entry into Austria. Although the Leibstandarte was one of the first formations to march into Austria, we made no preparations for this entry. I know that exactly, since I was secretary with the staff, that neither the adjutant nor the Hauptsturmfuehrer in the staff knew anything half an hour before we left as to where we were going. When the Leibstandarte was in Austria, there was such enthusiasm that none of us would have thought that a crime had been committed here. The fact that we, as Leibstandarte, moved into Austria was a matter of course to us because the Fuehrer was there and we, as his bodyguard, went to Austria too.

Q. Witness, in view of the evidence which has been presented here, do you want to deny that millions of killings have taken place which are now being charged against the SS men?

A. I have talked to many members from various internment camps on this point. I can only repeat what we told each other. The Allies have given us a big puzzle with the discovery of this crime. We were always trained in honour, discipline and decency. For five years we fought in faithful duty for our fatherland. Now we sit behind barbed wire and everyone tells us we are murderers and criminals. I can only say one thing, and I say this for my comrades to whom I have spoken - we did not murder, we did not know of the abominable atrocities of Himmler who betrayed and deceived us too, by preferring death to responsibility. By committing suicide, he placed himself outside the ranks of the former SS, and that small circle of men who, perhaps through a false sense of obedience, became his assistants knew how to keep silent. Until today we knew nothing about it.

DR. PELCKMANN: Thank you. I have no more questions.

CROSS-EXAMINATION BY MR. ELWYN JONES:

Q. Witness, you have said that the SS, and the Waffen SS in particular, was always trained in honour and decency. Himmler used to come and lecture to your division, the Leibstandarte, did he not?

A. I was not present at any speech which Himmler made to the Leibstandarte.

Q. Did you know that he made speeches to the officers of the Leibstandarte?

A. Yes. As far as I recall, there was a speech at Metz when I was at the Ergänzungsamt. My comrades told me about it.

Q. Do you know what Himmler said?

A. No.

Q. Did you not think it was right to ask them?

A. Of course. I always asked, because as a former member of the Leibstandarte I was still interested in what was going on. But I did not discuss individual items such as, for example, the speech of the Reichsfuehrer.

Q. Because he was educating your division in what is the very opposite of honour and decency. Did you know, for instance, of the mass murder of the leaders of the Polish nation by the SS?

A. That cannot be possible. I read a great deal of the training material of the Waffen SS. I did not read any request to commit such mass murders.

Q. Let me read to you two or three sentences from a speech Himmler made to the officers of your own regiment. I refer to 1918-PS, Exhibit USA 304.

“Very frequently the member of the Waffen SS thinks about the deportation of this people here. These thoughts came to me today when watching the very difficult work out there performed by the Security Police, supported by your men, who helped them a great deal. Exactly the same thing happened in Poland in weather 40 degrees below zero, where we had to haul away thousands, tens of thousands, hundreds of thousands; where we had to have

the toughness - you should hear this but also forget it again immediately - where we had to have the toughness to shoot thousands of leading Poles, otherwise one might later sorely regret it.”

Are you saying that you did not know that Himmler said that to your regiment?

A. In the first place, I did not know it. In the second place, as far as I have heard, no members of the Waffen SS did that. Himmler said “we.” I do not know who this “we” is. As far as I heard, that is not shown by the speech.

Q. Himmler was addressing the officers of your regiment, the Adolf Hitler SS Leibstandarte, and told them that the murders should be the work of the Security Police, namely, your men, the men of your regiment. That is perfectly clear, is it not?

A. No. That is not clear. The whole thing is wrong.

Q. Let me read to you another indication of the honour and decency in which you are apparently being inculcated. At Page 10 of the German text of Himmler’s speech, Page 3 of the English text, you will see how Himmler - you need not trouble to read it at the moment - you will see how Himmler was telling your regiment of the SS that out of the slave labour of the victims of his organization, money was to be raised for the benefit of the SS men. I will read to you what he said.

THE PRESIDENT: We have had this document read before, I think.

MR. ELWYN JONES: Yes, my Lord, I am only going to refer to two sentences of it.

THE PRESIDENT: The witness said he was not there.

MR. ELWYN JONES: That is so, my Lord; what I am suggesting is that this was an address to the officers of his own regiment. Before the Commissioner, it was indicated he joined a month later.

BY MR. ELWYN JONES:

Q. When did you rejoin the Leibstandarte, witness? In 1941?

A. I joined in 1933.

Q. Did you rejoin it again in 1941?.

A. In 1941, from June to August, I was on the Russian front with the Leibstandarte.

Q. So you joined this regiment a few weeks after Himmler had addressed the officers of it?

A. I do not know exactly the date of Himmler's speech in Metz.

MR. ELWYN JONES: If it is not desired that I should put the document to the witness, I certainly should not do so against the wish of the Tribunal.

THE PRESIDENT: The Tribunal would rather you did not.

Q. Can you explain to the Tribunal why it was that the Waffen SS, the personnel of the Waffen SS, were used in anti-partisan activity?

A. No. I did not know that the Waffen SS was particularly used against the partisans. On the basis of my position, I know that the Waffen SS was often subordinate to army units in the rear areas and here, perhaps in exceptional cases, was employed in anti-partisan activities. On the whole, however, the Waffen SS with its divisions was at the front. I know nothing of the special partisan units of the Waffen SS.

Q. I suggest to you that for military or other tasks that call for ruthlessness or political fanaticism, the Waffen SS was used. Is that not so?

A. I do not know that. I know nothing about it. Please give me an example so that I can comment on it.

Q. I will tell you what Field-Marshal Goering said about it to the Duce, in the Palazzo Venezia on, 23rd October, 1942. I am referring to the document D-729, Exhibit GB 281. He describes Germany's method in fighting the partisans. He describes the taking away of livestock and the other details of the technique that was advocated; and then Goering says, "Germany had experienced that, generally speaking, soldiers were of no use

in carrying out such measures. Members of the Party discharged this task much more harshly and efficiently.”

If you will be good enough to listen to me reading it, witness, it will come over the earphones. “Members of the Party discharged this task much more harshly and efficiently. For the same reason armies that were strengthened by a political creed such as the German (or the Russian) fought much more energetically than others. Also the SS, the guard of the old fighters of the Party, who have personal ties with the Fuehrer and who constitute an elite, confirm this principle.”

That is correct, is it not, witness?

A. I do not know whether the Reichsmarschall gave any order to combat partisanship. What the Prosecutor has just read is a statement of opinion to another statesman. I see no orders in that to the Waffen SS; and for that reason I maintain my testimony that the Waffen SS as a unit was not used for combating partisans.

MR. ELWYN JONES: If it please your Lordship, in view of the evidence which is before the Tribunal on the employment of the Waffen SS and on its pay measures, I am not going to proceed with the cross-examination as to the general matters with which this witness dealt. The Tribunal has indicated that it does not desire me to put matters which should be put in cross-examination before the Commissioners and, under these circumstances, I have no further questions to ask but I will take my cross-examination before the Commissioners for the purposes of the Tribunal.

COLONEL SMIRNOV: I am going to ask a very few short questions with your permission, my Lord.

CROSS-EXAMINATION BY COLONEL SMIRNOV:

Q. As I understood you, witness, you were very surprised when you learned about the killings in the concentration camps?

[Robert Brill] A. Yes.

Q. And you contend that the Waffen SS did not participate in the killings in the concentration camps?

A. I said that. I and countless comrades of the Waffen SS knew nothing about them. The defence counsel told me that killings were carried out. I did not deny it.

Q. Will you tell us, please, who was in charge of the Kommandantur within the concentration camp? Was it not the Waffen SS?

A. No, they were not Kommandanturen of the Waffen SS. Certain members of the nominal Waffen SS were in the Kommandanturen; but there is a clear order of the High Command of the Waffen SS which I have already mentioned. It is included in the army circular of December, 1940, and stated that members of the Totenkopf (Death's Head) units do not do any military service in the sense of the SS. Members of the Totenkopf units

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Q. I would like to ask you to be more concise. So you contend that the Kommandanturen in concentration camps were Waffen SS Kommandanturen?

A. The Kommandanturen were not under the command of the Waffen SS; but members of the Waffen SS were in the Kommandanturen. There is a distinction.

Q. But these Kommandanturen were Waffen SS Kommandanturen?_

A. No, they were not Kommandanturen of the Waffen SS.

Q. Another question, before I refresh your memory on these matters. Is it not the staff of the Waffen SS who are responsible for the most terrible crimes committed in the concentration camps?

A. The inspectorate of the concentration camps was the supreme authority for the guards, personnel, and for the Kommandanturen of the concentration camps; and this inspectorate was responsible, as far as I know, for all concentration camps.

Q. What was the rank of Gluecks? Do you know that name?

A. Gluecks was the commander or Kommandant of the inspectorate of the concentration camps.

Q. I am asking you about his military rank. Was he a general of the Waffen SS?

A. I believe he was a lieutenant-general of the Waffen SS.

COLONEL SMIRNOV: Sir, please allow me in order to refute the words of the witness to present a document which, although it is a private document, has an exceptional evidential value and without which the material of the proceedings would be incomplete. I am speaking now of a circular letter of the General Major of the Waffen SS, Gluecks, about the utilization of human hair in the concentration camps. If the Tribunal please, while evidence was presented concerning the Auschwitz concentration camps, we mentioned that seven tons of hair cut off from 740,000 women's heads had been found there. We did not know till now what was the aim of the utilization of this hair; but now we have an original document which describes this purpose and which I am submitting. This document has been found in the archives I will quote the whole document with your permission:

“Secret. SS-General Economical and Administrative Department, Department D., Concentration Camp, Oranienburg, 6th August, 1942. Copy Number 13. Re: Utilization of cut hair. To: Concentration Camp Kommandants.” And then thirteen concentration camps are mentioned. I omit their names.

“The Chief of the Central Economical and Administrative Department of the SS, on the basis of a report submitted to him, orders that all human hair cut in concentration camps be appropriately utilised. Human hair is to be spun into industrial felt and yarn. Out of combed and cut hair of women, hair-yarn stockings for U-boat crews are to be made, as well as hair-felt stockings for employees of the Reich railways.

Therefore, I order that the hair of women prisoners after due disinfection be collected. Cut hair of male prisoners can only be utilised if at least twenty millimetres in length.”

SS-Obergruppenfuehrer Pohl, therefore, gave his consent that by way of experiment the hair of male prisoners should be cut only when it reached a length of twenty millimetres.

In order to avoid facilitating escape through the increase in length of hair, in all cases where the Kommandant finds it necessary to earmark the prisoners, a strip of hair should be clipped by means of a narrow clipper right over the middle of the head.

The hair gathered in all the camps will be utilised by creating a special production unit in one of the concentration camps.

More detailed instructions as to the delivery of stores of hair will be given separately.

Reports on amount of hair gathered each month, male and female recorded separately, must be submitted on the 5th of each month, beginning with 5th September, 1942.

Signed: Gluecks, SS-Brigadefuehrer and General Major of the Waffen SS.”

Q. Now, I would like you to look at the stamp. Do you see this stamp; it says: Waffen SS Kommandantur, Sachsenhausen. Do you still assert that the Kommandanturen of the concentration camps were not on the budget of the Waffen SS?

A. Yes. I will explain that. The Kommandanturen of the Waffen SS, the Kommandanturen of the concentration camps, were officially on the budget of the Waffen SS, as it was necessary to have all economic -

Q. So they were on the budget of the Waffen SS, were they not?

A. I said they were on the budget of the Waffen SS; but it was necessary for economic reasons to mention, so to speak, an organization of the

Kommandanturen which had the possibility of working with Reich funds and with the Reich authorities.

COLONEL SMIRNOV: To clarify this question, my Lord, may I draw your attention to the stamp where it is said, "Kommandantur K.L., Sachsenhausen, Waffen SS." This proves that the Waffen SS was in charge of the Kommandantur. I have no further questions.

THE PRESIDENT: Do you want to re-examine?

DR. PELCKMANN: I will ask the witness one final question.

BY DR. PELCKMANN:

Q. Did you ever hear the expression "Nominal Waffen SS"?

A. Yes. The expression "Nominal Waffen SS" was used by us for the guards, personnel, and Kommandanturen of the Waffen SS, inasmuch as these Kommandanturen were in the Waffen SS at all. Within the Waffen SS, as I already explained on the regulation for replacement, we had the Waffen SS proper, that is, the troops; and then on the economic budget of the Waffen SS, we had various formations, which, at the order of Himmler, were put there so that they could enjoy the advantages of the Waffen SS in regard to dealings of an economic nature, etc., with the authorities.

Q. Then it was a technical expression which was known everywhere, the Nominal Waffen SS?

A. Yes. The Waffen SS proper, that is the troops, were under a Kommando Amt of the Waffen SS unless they were at the front and thus under the army. And this inspectorate of the concentration camps was not under the Kommandant of the Waffen SS and received no orders from this side. The inspectorate of the concentration camps, Gluecks's office, had its own channel of command. As far as I know, it received its mail independently, and so forth; and as far as I know, it did not even come into closer contact with the WVHA, of which it was an Amtsgruppe.

DR. PELCKMANN: Thank you.

BY THE TRIBUNAL (Mr. Biddle):

Q. Witness, you said that the Kommandanturen were within the budget of the Waffen SS. Did you mean on the budget of the Waffen SS?

A. On the budget.

Q. Of the Waffen SS?

A. On the budget of the Waffen SS, as far as I know.

THE PRESIDENT: And was the inspectorate of concentration camps also on the budget of the Waffen SS?

A. I cannot definitely say that.

Q. How were the Waffen SS paid in the first place? Were they paid in the same manner as the Wehrmacht?

A. Yes.

Q. Were they paid the same amounts?

A. Yes.

Q. And was their budget in the budget of the Wehrmacht or was there a separate budget?

A. Yes.

Q. What do you mean, "yes"? Was it in the budget of the Wehrmacht, or was it a separate budget?

A. We were paid according to the rank pay order section of the army, that is, from the budget of the Wehrmacht.

Q. So in all respects as far as pay went, you were part of the regular army, is that right?

A. Yes, that is right.

Q. Why, then, did you keep this separate designation of Waffen SS if you were part of the Wehrmacht?

A. I assumed that Himmler and particularly Hitler wanted it that way. He wanted a Waffen SS, a special troop.

Q. You had separate uniforms, did you not? You had different uniforms from the Wehrmacht?

A. We had the same uniforms, only different insignia. That is, we had the same shoulder insignia, only in addition we had stars and stripes which the Wehrmacht did not have.

Q. To what extent, after you joined the army, were you still subject to Himmler's command?

A. We were not under Himmler's orders at all. Up to 1939 we were as SS Verfuegungstruppe under Hitler's orders; and then the Waffen SS was also under the orders of Hitler as commander-in-Chief of the Wehrmacht.

Q. Did Himmler have anything to do with the Waffen SS?

A. Yes. For example, Himmler had the right to inspection; he had the right to make promotions; and on administration and care of the troops, and also, as far as I know, on legal matters, Himmler, i.e., his main office, had an influence.

THE PRESIDENT: The witness can retire.

DR. PELCKMANN: Your Lordship, to clear up the question which the Tribunal has just asked, I consider it necessary to call the head of WVHA, Amtsgruppe D, the witness Pohl.

THE PRESIDENT: Is he one of the witnesses that have been allowed to you?

DR. PELCKMANN: He is not one of those witnesses. I only want to prepare orally for my written application which I shall hand in.

THE PRESIDENT: The Tribunal thinks you had better call your next witness, Dr. Pelckmann.

DR. PELCKMANN: The next witness will testify on the questions that were asked the last witness. I shall give my suggestion for the cross-examination of the witness Pohl in writing.

I call the witness Hauser.

(PAUL HAUSER, a witness, took the stand and testified as follows):

BY THE PRESIDENT:

Q. Will you state your full name, please?

A. Paul Hauser.

Q. Will you repeat this oath after me?

I swear by God, the Almighty and Omniscient, that I will speak the pure truth and will withhold and add nothing.

(The witness repeated the oath.)

THE PRESIDENT: You may sit down.

BY DR. PELCKMANN:

Q. When were you born?

A. I was born on 7th October, 1880.

Q. You were a professional soldier?

A. Yes.

Q. When did you leave the Wehrmacht?

A. On 1st February, 1932, I left the Reichswehr as a lieutenant-general.

Q. How did you come to the SS?

A. In 1933, as a non-party member, I joined the Stahlhelm -

Q. Please speak more slowly, witness.

A. ... and with this organization I was transferred to the SA reserve in 1934. After the events in the summer of 1934 I was asked by Heinrich Himmler whether I would be willing to take over the establishment and direction of an officer-candidate school. I accepted this assignment, and in November, 1934, I joined the *Verfuegungstruppe*.

Q. At what time and in what position did you acquire the knowledge which enabled you to appear here and testify as a witness for the SS?

A. From Easter, 1935, to the summer of 1936, I directed the school. Then I was inspector of the *Verfuegungstruppe* from 1936 to 1939. During the war, for two years in each capacity, I led an SS division and an SS Panzer Corps, and then, from 1944 on, I was again in the army, as commander-in-chief of an army group.

I am in a position to give information on the *Verfuegungstruppe* in peace time and on the Waffen SS during the war, as far as I became

acquainted with them personally, and as far as they were under my orders. I do not know the General SS. During the war I was not employed at any central office.

Q. What was your last rank in the Waffen SS?

A. I was General (Generaloberst) of the Waffen SS.

Q. What was your last position?

A. At the beginning of 1945 I was commander-in-chief of Army Group D, on the southern flank of the Western front.

Q. About how many divisions were under you at that time?

A. This army group had twenty to thirty divisions, only two of which belonged to the Waffen SS.

Q. How did you as General of the Waffen SS get a leading position in the army?

A. That was a result of the close co-operation between the army and the Waffen SS. My employment in that capacity was suggested on the basis of my previous experience with the army.

Q. Let us go back to the initial stages. When was the Verfuegungstruppe created? How strong was it, and how did it increase in numbers?

A. The beginnings of the Verfuegungstruppe go as far back as the year 1933. In this year, the Leibstandarte was created as a sort of bodyguard for Adolf Hitler. Following that, individual battalions were formed for representational purposes. Only at the very beginning, in 1933 and 1934, were men of the General SS used. Later the very youngest of the age-groups subject to military duty were recruited.

Q. What was the strength in 1936, and, for instance, in 1939?

A. In 1936, there were three infantry regiments and three technical battalions. In 1939 there were four infantry regiments, one artillery regiment, and three technical battalions.

THE PRESIDENT: The Tribunal thinks this would be a convenient time to break off.

(A recess was taken.)

THE PRESIDENT: The Tribunal will adjourn at half-past four this afternoon.

BY DR. PELCKMANN:

Q. Witness, what was the purpose and the task of the so-called *Verfuegungstruppe*? Was it to serve as a new armed force alongside the *Wehrmacht*?

A. The purpose and the task were laid down in the basic decree of Adolf Hitler of August, 1938. According to that decree the *Verfuegungstruppe* was to belong neither to the *Wehrmacht* nor to the police. It was a standing troop at the disposition of Adolf Hitler, and it was paid from State funds. The training was supervised by the High Command of the Army and replacements were taken from volunteers of the youngest age groups.

Q. Was the *Verfuegungstruppe*, therefore, meant to be a political nucleus? The prosecution accuses it of being a special instrument for the oppression and elimination of political opponents and of having aided realization of the Nazi ideology by use of weapons.

A. That is not true. The *Verfuegungstruppe* had neither political nor police tasks. It developed gradually into a test troop which had to combine all the old soldierly virtues with the requirements of the Socialist age. Especially as concerns the relationship between officers and men, advancement from the bottom up without special examinations; and the doing away with any and all exclusiveness.

Q. Were the members of the *Verfuegungstruppe* expected to give blind obedience?

A. No. They swore obedience and loyalty to Adolf Hitler and to their superiors. An unconditional obedience which would have included crime was not expected and was not sworn to.

Q. The prosecution is particularly accusing the *Verfuegungstruppe* that incitement of racial hatred and persecution of the Jews belonged to its

special tasks. Was the troop trained for these purposes?

A. The political and ideological education could only have been carried through by training. I, personally, as leader of the candidate school and as an inspector, have supervised this training, for I myself was a new man and had to work myself into the new way of thinking. I can testify that race hatred and extermination of Jewry or of the Eastern peoples were never taught and were never demanded.

Q. According to the prosecution, this troop served the purpose of preparation for an aggressive war. Was the striving for predominance in Germany through terror and the conquest of all Europe taught?

A. These young troops needed time and peace for fulfilment of their tasks. Their commanders were veterans of the First World War without exception. They knew war and they knew that it had brought misery and misfortune to us once already. Terror in German domestic life and domination in Europe were never contemplated by this small, young troop.

Q. Can it be deduced from the setting up of this *Verfuegungstruppe*, already before the re-establishment of conscription in 1936, that this meant a breach of the Treaty of Versailles?

A. Before the re-establishment of conscription, this troop had consisted at the most of 4,000 to 5,000 men and could not be used for either a defensive or an offensive war. And later, too, it was not prepared for war, as it had no divisional staff, no general staff, no replacement of men or officers. It was far from being ready for a war of aggression.

THE PRESIDENT: Witness, could you speak in a slightly lower tone of voice? The sound of your voice interferes with the sound of the interpreter's voice coming through to us.

THE WITNESS: Yes, sir.

BY DR. PELCKMANN:

Q. What tasks did you personally have as inspector of the *Verfuegungstruppe*?

A. I was not a commander with the power to issue orders but rather I was an inspector responsible for the training and education of the troop. Beyond that, I received executive orders from Heinrich Himmler on questions of organization.

Q. Did the replacements consist of volunteers and where did they come from? What were the motives for their joining?

A. Until the beginning of the war replacements came from volunteers only. In the first years, that is in 1933 and 1934, they came from the General SS.

THE PRESIDENT: Witness, may I remind you once more to speak a little lower and a little less loud. Otherwise, the voices will cross in the translation. And please speak a little more slowly as well.

A. The volunteers were recruited in the entire country. Their applications, which were sent in in large numbers, were not determined by questions of ideology. They were men who wanted to do their military service in a well-known and highly motorized unit.

Q. What relationship existed between the Verfuegungstruppe and the many other various branches of the organization which were under Heinrich Himmler's uniform command?

A. I mentioned already that only at the time of the establishment of the troop did we have local contacts with the Oberabschnitte of the General SS. These contacts decreased, especially when the inspectorate was established as a central office, and they ceased to exist altogether even before the war started. There were neither official nor personal contacts with the Death's Head Units, which had the task of guarding the concentration camps, a task belonging more to the police sphere - not even in the joint garrison at Dachau. Neither were there any official or private contacts with the SD. The tasks of the SD were not known. I might mention that in peace time I hardly spoke a dozen words to Obergruppenfuehrer Heydrich, the chief of the SD, when I once met him in the antechamber of Heinrich Himmler's office.

Q. What can you tell us about the tasks of the Death's Head Units?

A. The tasks of the Death's Head Units were contained in the basic decree of August, 1938. At times they furnished guards for the concentration camps, although they had no entrance to the inside of the camp. Their replacements were recruited among the German youth or among men who had already served their period of military service. Their training was not supervised by the armed forces but it was soldierly all the same.

Q. Was service in the Death's Head Unit equal to service in the armed forces?

A. No, it did not count as service in the armed forces.

Q. And these young volunteers who were recruited, did they know that they were to be used to guard concentration camps?

A. I did not have an insight into the recruiting of the Death's Head Units, but I do not believe that they were told the aim.

Q. What do you know about the participation of these Verfuegungstruppe in the incidents of 30th June, 1934, and 9th November, 1938?

A. I cannot speak about the participation on 30th June, 1934, for at that time I was not in the Verfuegungstruppe, but I do know that men of the Verfuegungstruppe were convinced that the executions which were being carried out there had been ordered by acts of the State executive power. The Verfuegungstruppe was in no way connected with the excesses of 9th November, 1938. The large majority, such as the Leibstandarte and the regiment at Munich, and all the recruits, had gathered at Munich for the annual swearing-in programme.

Q. Now, what do you understand by under the Waffen SS?

A. After the beginning of the campaign in the autumn of 1939 three divisions at first were set up containing men recruited from the Verfuegungstruppe, the Death's Head Units, and from men who had been

trained for the police, and, grouped together with various other smaller units, they received the name of Waffen SS. These few divisions proved their worth and with the growing need for more troops for the war they were gradually increased up to more than thirty- five divisions. The main reason for this unplanned growth is due to the fact that all racial Germans who volunteered from the North, from the East, and from the South-east of Europe served in this Waffen SS. The total strength, with all losses reckoned, might be said to be about 900,000 men. Only one-third to one-half would have been Reichsdeutsche (Reich Germans).

Q. At the end of the war?

A. Yes, at the end of the war.

Q. The prosecution asserts that the Waffen SS deliberately participated in a war of aggression. Is that assertion correct?

A. Members of the Waffen SS did not have the impression that they were participating in a war of aggression, and that they were being used for that purpose. They lacked any and all insight as to whether the war was one of aggression or one of defence. Their oaths bound them to their duties. It was not possible for them to refuse to participate in a war.

Q. Was there a uniform or unified SS chief command during the war? To whom were the divisions subordinate during the war?

A. A unified SS chief command post did not exist during the war. The main office leadership in Berlin was an administrative agency. All divisions of the Waffen SS were incorporated into the army and fought under the command and, in the final analysis, under the responsibility of the army. I personally, in the five and a half years of the war, received orders only from the armed forces offices and agencies.

Q. Did Heinrich Himmler have any influence on the divisions of the Waffen SS, and if so, what influence did he have?

A. The divisions which had been incorporated into the army were subordinate to Heinrich Himmler only in matters dealing with personnel

and replacements, with judicial questions and fundamental problems of organization.

Q. The prosecution states that the Waffen SS used special means of combat and that they deliberately fought cruelly, used terror methods, and carried out mass exterminations.

A. I must give you a straight no. The troop was young, it had no tradition, and it had no name. It had to prove itself first. The commanders took personal pride in achieving a high standing and reputation for this troop through courageous but fair methods of combat. Since some of the divisions fought together with the army the generals of the army would not have tolerated any methods deviating from ordinary fighting, and just as they took steps in tactical matters they would have stepped in if this accusation of a terrorist method of fighting had been justified. They would have noticed it just as I would have noticed it, for in critical periods the commanders are on the road for days on end and they see how the troops are fighting and can judge what methods are being used.

Q. Were the officers and men instructed about adhering to International Law?

A. Even in peace time as part of their training the officers and men were informed of the Hague Convention and the Hague Rules of Land Warfare. Further instruction, of course, took place constantly during the war.

Q. Is it correct that Himmler once said that the successes of the Waffen SS were to be credited to terroristic measures?

A. Heinrich Himmler once used this expression in a speech. I reported to him that it was completely wrong, that we had not gained our successes through terror methods, but only through the courage of officers and men who were ready to sacrifice themselves to the last man if necessity arose.

Q. What basic principles were applied by the troop for the treatment of prisoners of war?

A. The prisoners of war were treated according to the rules which applied in the army - welfare work, food, treatment, just as in the army. I myself while lying wounded in different field hospitals noted that friend and foe were treated alike, and the old manner of dealing with prisoners did not apply.

Q. Was the nomination of Himmler to the rank of Commander-in-Chief of the Replacement Army and its organization, and with that his nomination as chief of the prisoner-of-war system, the cause of any changes in this policy?

A. Regarding the Waffen SS, no. But the prisoner-of-war system was put under his authority since Heinrich Himmler was Supreme Commander of the Replacement Army, and he decreed that the Higher SS and Police Leaders at home be charged with the supervision of the security measures of the prisoner-of-war camps. I do not know, however, the details. I can only state that, thereupon, the Higher SS and Police Leaders were made generals in the Waffen SS.



Execution of Polish hostages by an SS-task force in October 1939.

Q. The prosecution asserts that the Waffen SS, because of their will to destroy, committed crimes against humanity and crimes against the laws of war in the occupied countries and arbitrarily destroyed cities and villages. Did the Waffen SS participate in those measures?

A. I had occasion to see these troops during the war. I lived with the population in the East and West. The relationship was always a good one. It was based on mutual aid and assistance. Where we had to call the population to help us, of course, for instance, in road-building, they received food for their services. The arbitrary destruction of villages would only have made it more difficult for us to get accommodation. I do not remember a single case in which the front troops of my division had ever taken hostages or destroyed villages as a punishment.

Q. Before the Eastern campaign, had you known of a decree of Hitler's which allegedly said that excesses of the troops toward the civilian population were not to be punished?

A. That was not the wording of the order. Rather, it left the decision as to whether the troops, in their excesses towards the civilian population, were legally to be prosecuted to the court itself, whereas formerly the court was under obligation to prosecute. I personally had ordered in my report that, as an aid to discipline, such excesses were to be prosecuted by the law, and the judgements which were reported to the Reichsfuehrer show that excesses were punished very severely.

Q. Do you know the Kommissar order or decree?

A. The Kommissar order or decree was addressed only to the corps of the Waffen SS. In 1941 we did not have any corps, that is General Kommandos. Accordingly this decree was and is unknown to me and, therefore we could not have been guided by it. I recall only having seen a later decree which demanded the segregation of the Kommissars. The troops, in reality, were not too concerned with this order, for the Kommissars, as such, were not recognized by the fighting troops.

Q. Was the fight against the partisans a special task of the Waffen SS, and was this to be considered a fight of extermination?

A. The fight against partisans was a purely military, political, police -
(At this point there was a mechanical breakdown.)

THE PRESIDENT: The Tribunal will adjourn for today.

(The Tribunal adjourned until 1000 hours, 6th August, 1946.)

TUESDAY, 6TH AUGUST, 1946

THE PRESIDENT: The Tribunal will sit in closed session on Thursday afternoon. That is to say, it will not sit in open session after one o'clock on Thursday. It will sit in open session on Saturday morning until one o'clock.

PAUL HAUSER RESUMED

DIRECT EXAMINATION BY DR. PELCKMANN:

Q. Witness, was the Waffen SS a special fighting unit for the combating of partisans, and was the fight against the partisans considered to be a war of extermination?

A. The, fight against partisans is a general military and political police measure, which can be assigned to any troop; front-line troops of the Army, as well as of the Waffen SS, were only used in exceptional cases, for instance if they were in the rear areas. There were usually no partisan fights in the operational areas; they mostly took place in the rear areas only. This fighting was mainly the task of the Security Division of the army and special defence battalions, and besides that, police troops. Units of the Waffen SS at the front were not especially trained to this kind of fighting and were utilised just as little for it as Panzer divisions of the Army, for instance. In the East, units of my division were never used in the fight

against partisans at any time. Therefore it was not a special task for SS units, and they were not especially trained or instructed for this purpose.

Q. What relationship existed between the Waffen SS on one hand and the Security Police and constabulary and the so-called Einsatzgruppen and the Einsatzkommandos on the other?

A. These various branches of the organization of Heinrich Himmler, unfortunately, wore the same uniform even though they had different insignia. The only thing they had in common was their chief - Himmler. The various branches were completely separate from each other even before the war. The separation was intensified more and more during the war. Units of the Waffen SS were under the command of the army officers. The other branches, SD., police, etc., were subordinate to Himmler.

Q. Did you hear anything about the SD-Einsatzgruppen?

A. At the beginning of the campaign I had heard, by word of mouth, about as much about the SD-Einsatzgruppen as the Commanders-in-Chief -

Q. Please repeat that, witness.

A. At the beginning of the campaign I had heard, verbally, about as much about the SD-Einsatzgruppen as the Commanders-in-Chief of the army groups knew, namely, that they were used in the rear areas alongside the secret field police with the object of guarding the population and securing material from the enemy administration centres. I never had any personal contact with any of the branches. Therefore, I cannot give you any further information about their activity.

Q. Is it therefore true that only during your arrest did you hear anything at all about the participation of small units of the Waffen SS, altogether about three to four companies, besides the police and gendarmerie?

A. Only during my arrest here did I hear of these matters.

Q. Did the Higher SS and Police Leaders belong to the officers corps of the Waffen SS?

A. The Higher SS and Police Leaders did not belong to the Waffen SS. They had no authority to command and they had nothing to do with us.

Q. Did the Waffen SS furnish the guarding units and the so-called Kommandantur personnel for the concentration camps?

A. Units guarding the concentration camps and the personnel in the Kommandantur did not belong to the Waffen SS. Only in the course of the war were these units designated as Waffen SS in order to release them from military service and give them freedom to carry out their police duties. The members of the Waffen SS considered this measure, which they learned of only after the war, a deliberate deception on the part of Himmler. We did not have anything to do with the men of the concentration camps and the guard personnel.

Q. It is not quite clear, witness, just what you meant when you said “to release them from military service.” Will you explain that in more detail.

A. All persons who served at home and in the police had to be relieved of military service in the Wehrmacht by the Wehrkreis district commander in order to carry out their police tasks. That did not apply when all the units of guards were designated as Waffen SS, for these were a part of the Wehrmacht. In the main offices in Berlin these units, in order to differentiate, were designated “nominal Waffen SS.” But all this I learned here later.

Q. The prosecution asserts that the Waffen SS was only a part of the whole SS organization, and that as such, it was needed for the carrying through of the total criminal conspiracy. Please comment on this.

A. I believe that it can be seen from all my testimony that the Waffen SS was a completely independent unit and connected with other organizations only through the person of Heinrich Himmler. This separation of the various branches undoubtedly intensified itself during the war. Therefore, we could not have harboured criminal plans with the others or participated in carrying them through.

Q. You, in fact, felt yourself to be a part of the Army?

A. We were completely incorporated into the Army, and the designation “fourth branch of the Army,” although it was not officially sanctioned, did apply basically.

Q. Apart from the accusation concerning the concentration camps, the prosecution further asserts that the Waffen SS, on the basis of its training, was a particularly cruel military tool, and that is to be shown, allegedly, by the participation of the Waffen SS men in the evacuation of the Warsaw Ghetto, and, says the prosecution, in the violations of International Law such as the murder of prisoners of war. Is that correct?

A. I already testified, yesterday, that our training was not directed to that end. Our method of fighting was supervised and ordered by the Army, and we did not gain prestige through cruel methods. The commanders who had personal pride in leading a clean fighting unit against the enemy saw to that. I only learned here of the participation of small units of the Waffen SS in the evacuation of the Warsaw Ghetto or in the executions which took place in Bohemia and Moravia. This can only be a question of small parts of replacement units which were temporarily subordinated for a brief period of time.

Unfortunately, during my arrest I heard of two trials against members of the Waffen SS. One of these proceedings has not been concluded as yet, and in my own mind, I cannot quite determine my attitude.

Q. You mean the killing of prisoners?

A. Yes. These incidents are not the results of training, but rather the failure of individuals, nervous breakdowns when in difficult positions in enemy territory. But these accusations should not be generalised. Even if there had been ten instead of only two cases, the ratio, as applied to the entire membership of the Waffen SS of a million men, would be one case to every 100,000 men. Such incidents are the results of the intensification of combat on the ground and in the air during a long war; incidents which

have occurred on both sides and will continue to occur. You cannot hold the bulk of the Waffen SS responsible.

Q. What effect did Heinrich Himmler actually have on the internal attitude of the members of the Waffen SS?

A. Heinrich Himmler, most assuredly, tried in peace time to exert his influence on the small special units. During the war this was practically impossible. He did not address troops of the Waffen SS. On occasion he did talk to some officers and commanders of single divisions in the field. It was generally known that Heinrich Himmler, who probably was a soldier only for one year, was completely alien in his relations with troops and that he underestimated the military tasks involved. He liked to play the role of the strong man through exaggeration and through superlatives. If someone comes along with big words, the soldier on the front does not pay much attention.

In that way the influence of Himmler was very insignificant during the war. We wore his uniform of course, but the reputation of the Waffen SS was established by its officers; by the example they set and by their daily work.

Q. Was the influence of Himmler on the commanders perhaps stronger than on the masses of SS soldiers?

A. Quite the contrary. The commanders, of course, were under him so far as military obedience is concerned. But they had the right to criticise through their own experience of life and of the world, and as a fact this criticism was necessary in face of Himmler's extravagant and romantic ideas. These men had enough experience to be able to translate his statements into the language and manner of thought of the soldier. The critical attitude toward Heinrich Himmler increased continually during the war. He believed that he could usually dispense with the advice of an old soldier. Objections were cut off short with the words: "This is the typical attitude of a general" - an attitude which he always fought against.

Q. Is it correct that Heinrich Himmler in his speeches broke out into exorbitant invectives against the Jews and the Slavs?

A. I only know about the speech at Kharkov in 1943, in which he mentioned three points which evoked our criticism and opposition. His statements in regard to the Jews, which were in very bad taste, applied only to Germany and did not indicate extermination in any way.

His references to the superior numbers of our enemy could only be interpreted by the common soldier to mean that the superior numbers of our enemy would have to be equalised in battle.

Q. What were the special points of criticism of the officer corps against Heinrich Himmler?

A. Without doubt he thought that after the war the various organizations which were subordinate to him, the SS and perhaps the police also, could be united into one organization, which was just opposite to what the situation was during the war, and it was against this that our criticism was directed.

Q. To what extent were the crimes in concentration camps such as the extermination of the Jews known to the Waffen SS? I should like you to remember that you speak not only for yourself as a highly placed general, but you also speak for the simple SS man, based on your own experience, of course.

A. It sounds quite impossible, and foreign countries are unwilling to believe it, but the members of the Waffen SS as well as myself knew nothing of the crimes of which we have heard here. This perhaps may serve as an explanation, that at home only those who had relations in the concentration camps learned anything about it, only the secret opposition which was always present gathered whispered stories and rumours. This was kept from the SS men. If one of them by chance heard something, he thought that it was hostile propaganda. Foreign radio broadcasts or newspapers were unknown to him, for they were forbidden at home. The bulk of the Waffen SS was set up against the enemy. The war tasks grew

from year to year and the efforts became more intense. An SS man did not have the time or opportunity to check rumours, and like myself, he was surprised and indignant about all these things which Himmler had done contrary to what he had preached to us in peace time.

Q. Do you know the speech of Himmler's made at Posen in which he mentioned the fact that thousands and tens of thousands of Jews had been killed?

A. I was not present at that speech at Posen, and only heard of it here, during my arrest. As far as I know, the speech was addressed to the leaders at home and in the occupied countries. The members of the Waffen SS were not present at all, or if so, only in extremely small numbers.

Q. The units for the guarding of the concentration camps were designated as Waffen SS as well, and ratings of the Waffen SS were given to persons connected with the concentration camp system. Did you know anything about these matters during the war?

A. I have already mentioned that the designation of concentration camp guards as Waffen SS men became known to me only after the war. However, I must add that Heinrich Himmler deliberately tried to efface the dividing lines between these varied organizations before the eyes of the public, and examples of that are in particular the designation of the concentration camp guard units as Waffen SS and the giving of ratings in the Waffen SS to persons who had no connection with the fighting troops.

Q. Do you consider that the Waffen SS did, for the greater part, participate in the crimes which indubitably were committed?

A. No. The prosecution chains the Waffen SS to the fate of Heinrich Himmler and a small circle of criminals around him. The Waffen SS is taking this quite bitterly for it believes that it fought decently and fairly. It is far removed from these crimes and from him who caused them. I should like to ask the High Tribunal to please listen to the statements and the judgements of your own frontline soldiers. I believe that they will not refuse

us respect. Special incidents were exceptions. The Waffen SS considers it quite unjust that it is being treated differently from the mass of the German Wehrmacht, and it does not deserve to be outlawed as a criminal organization.

DR. PELCKMANN: Mr. President, I have no further questions to this witness.

CROSS-EXAMINATION BY MR. ELWYN JONES:

Q. Witness, you heard Himmler's Kharkov speech in April, 1943, to the commanding officers of the three SS divisions in the East, did you not?

A. Yes, I heard that speech.

Q. And you remember that he ended his speech by saying: "We will never let that excellent weapon, the dread and terrible reputation which preceded us in the battle for Kharkov, fade, but will constantly add new meaning to it."

Do you remember him saying that?

A. Yes.

Q. And your units of the Waffen SS constantly added new meaning to your reputation for terror, did they not?

A. No. I have already made statements, yesterday and today, which entirely contradict this. I considered it as an insult to say that our successes were dependent on terror. Quite the contrary, I said that our successes resulted from the brave fighting of officers and men.

Q. Yesterday you told the Tribunal that the relations of the Waffen SS with the local population were good, and that your Waffen SS troops did not take hostages or destroy villages as punishments, or commit war crimes. That was your evidence, was it not?

A. I said that the relationships were unobjectionable and good, that we did not displace any part of the population to work at home.

Q. I want you to listen now to some documents I am going to put in with regard to the SS generally and with regard to the Waffen SS in

particular; first, two documents from your own sources.

MR. ELWYN JONES: The first, my Lord, is Document D-419, to be Exhibit GB 552. I am not proposing to cross-examine the witness as to these numerous documents, my Lord. It appears to be the desire of the Tribunal that they should be put in as speedily as possible.

THE PRESIDENT: If they are new documents, you can cross-examine him upon them.

MR. ELWYN JONES: If your Lordship pleases.

BY MR. ELWYN JONES:

Q. The first document, D-419, is a report by a General of Artillery named Detail, dated 23rd November, 1939, with regard to the internal situation in the Warthegau, Western Poland, incorporated into the Reich as the document describes it.

I need not trouble you with the first page of the document, the report of 2nd December and the letter of 30th November, but if you read the letter of General Detail dated 23rd November, 1939, the second paragraph runs: "The great work of construction in all spheres is not furthered by the intervention of SS formations which are given special racial political tasks and which are not subordinate to the Reichsgovernor in this. Here the tendency makes itself felt of interfering decisively in all spheres of administration beyond the framework of these tasks, and of forming a 'State within the State.'

This phenomenon does not fail to have its effect on the troops, who are indignant about the way the tasks are carried out and thereby generally become opposed to administration and Party.

I shall exclude the danger of serious differences by strict orders. The fact that this makes a serious demand on the discipline of the troops cannot be dismissed without further ado."

Then, the next paragraph:

“In almost all large towns, public shootings have been carried out by the aforementioned organizations, the selections varied enormously and were often incomprehensible, the executions frequently unjust.

In some districts all the Polish estate owners were arrested and interned with their families. Arrests were almost always accompanied by looting.

In the towns, evacuations were carried out, during which blocks of houses were cleared at random, the inhabitants loaded on to lorries at night and then taken to concentration camps. Here also looting was a constant accompanying phenomenon. The quartering and feeding in the camps was such that the Corps Chief Medical Officer feared the outbreak of epidemics which would be a danger to the troops.

In several towns actions against the Jews were carried out which turned into the most serious excesses. In Turck three SS cars under the leadership of a Higher SS Leader drove through the streets, on 30th October, 1939, while the people in the streets were hit on the heads at random with horse-whips and long whips. Amongst the victims were also people of German blood. Finally a number of Jews were driven into the synagogue; there they had to crawl in between the benches whilst singing, during which time they were continuously whipped by the SS men. They were then forced to take down their trousers in order to be hit on the bare behind.

A Jew who out of fright had dirtied his trousers was forced to smear the excrement into the faces of the other Jews.

In Lodz it has become known confidentially that SS Oberfuehrer Melhorm has issued the following orders:

- (1) From the 9th November no unemployment relief may any longer be paid to Poles and Jews, only forced labour is paid for. (This measure has already been confirmed.)
- (2) From 9th November, Jews and Poles will be excluded from the distribution of ration foodstuffs and coal.

(3) Unrest and incidents are to be created by provocation in order to facilitate the carrying out of the racial political work.”

The rest of the document I need not trouble you with.

That is an insight into the activities of the SS in Poland in November, 1939.

The next German document is the Document D-578.

MR. ELWYN JONES: My Lord, my attention has been drawn to another sentence in Document D-419, to which I should like to draw the Tribunal’s attention, the last paragraph but one:

“As the military commander of Posen has already reported to the High Command of the Army, the men feel very strongly about the disproportion between their pay and the many times higher daily rate of pay of other formations.”

Document D-578 is a report by a German Brigade Commander of the 1st Mountain Brigade, Colonel Pericic. It is dated 26th September, 1943. This document, my Lord, will be Exhibit GB 553. It is a report on the activities of the SS units in the area of Popovaca in Bosnia. I only want to trouble you with the first two paragraphs:

“On 16th September, 1943, an SS unit of 80 men marched from Popovaca to Osekovo for the compulsory purchase of cattle. I was not notified by anybody about the arrival of this unit in the technical operational area of the 1st Mountain Brigade and about the activity of this unit in the area, for which I alone am responsible.

A short time after their arrival in Osekovo this unit was attacked by partisans. Under the pressure of the numerically superior partisans, this unit had to retreat in the direction of the railway station, which they succeeded in reaching, but they had four men seriously and several lightly wounded, among them the unit commander. One man missing, and they also lost an armoured car. The unit commander then reported from Popovaca by telephone that when he had to retreat, he had killed all persons who were in

the open because he had no chance to distinguish between the loyal population and the partisans. He himself said that he killed about 100 persons in this incident.”

Now I want to put in some documents from the victims of some of these atrocities, first from the Yugoslav Delegation, the Document D-945.

BY MR. ELWYN JONES

Q. Witness, you appreciate that the Prinz Eugen Division was a division of the Waffen SS, do you not?

A. (No response.)

THE PRESIDENT: Witness, did you hear that question?

BY MR. ELWYN JONES:

Q. Witness, I asked you -

A. Yes; this division belonged to the Waffen SS.

MR. ELWYN JONES: Document D-945, my Lord, will be Exhibit GB 554. It is an extract from a report to the Yugoslav State Commission for Ascertaining the Crimes of the Occupiers and their Accomplices. I want to read the second and third paragraphs:

“In accordance with the order of the commander of the 118th German division, an SS battalion of the ‘Prinz Eugen’ Division and a battalion of the ‘Teufel’ Division under the command of the German Lieutenant-Colonial Dietsche carried out on 27th March, 1944, and on the following days a ‘purge action’ from Sinj in the direction of various villages whose names are set out.

On 28th March this SS battalion overran the villages of Otok Cornji, Ruda and Dolac Dolnji one after the other and carried out horrible massacres, destructions by fire and looting. They murdered on a single day in the three above-named Dalmatian villages 834 people - women and children as well as grown men - set on fire 500 houses and looted everything there was to be looted. They removed rings, watches and other valuables from the dead bodies. The mass slaughter was carried out in all the villages in the same

horrible manner. The German soldiers gathered women, children and men in one place and they opened fire on the crowd with machine guns, threw bombs at them, looted their property and set them on fire. In the house Milanevic-Trafo 45 burned bodies were found. In another house in the same village of Otok 22 unburned corpses were found in a pile. In the village of Ruda they collected all the people in one place and killed all of them. Those who happened not to be collected were killed when they were found. Not even the smallest babies at their mothers' breasts were spared. In some places the victims were soaked in petrol and set on fire. They also killed those who offered them hospitality out of fear. They also killed those people who were forced to follow them to carry their ammunition and other things. According to the evidence of reliable witnesses, the massacres were prepared beforehand, and this must have been the case as the above mentioned villages gave no reason whatsoever previous to the 'purge action' for any kind of reprisals ..."

That report is signed by the President of the State Commission, Dr. Dusan Nedeljkovic, University professor.

Then the Document D-940, which will be Exhibit GB 555, which is another extract from the Yugoslav State Commission report signed by the same President of the State Commission, Dr. Dusan Nedeljkovic, on the crimes of the 7th SS Division, "Prinz Eugen," in Crna Gora (Montenegro); it reads:

"The various German divisions operating in the area of occupied Yugoslavia marked their path by traces of devastation and annihilation of the peaceful population which will testify to the criminal character of the German conduct of the war for many years to come. The operations of the German divisions were in reality punitive expeditions. They destroyed and burnt down whole villages and exterminated the civil population in a barbarous manner, without any military necessity whatsoever.

The 7th SS Division, 'Prinz Eugen,' is famed for its cruelty."

Then I go on to the next paragraph:

“Wherever it passed - through Serbia, through Bosnia and Herzegovina, through Lika and Banija or through Dalmatia - everywhere it left behind scenes of conflagration and devastation and the bodies of innocent men, women and children who had been burnt in the houses.

At the end of May, 1943, the division ‘Prinz Eugen’ came to Montenegro to the area of Niksic in order to take part in the fifth enemy offensive in conjunction with the Italian troops. This offensive was called the ‘Black Offensive’ by the German occupying forces. Proceeding from Herzegovina, parts of the division fell upon the peaceful villages of the Niksic district.

Immediately after its invasion, this formation, opening fire with all its arms, began to commit outrageous crimes on the peaceful villages for no reason at all. Everything they came across they burnt down, they murdered and pillaged. The officers and men of the SS division ‘Prinz Eugen’ committed crimes of an outrageous cruelty on this occasion. The victims were shot, slaughtered and tortured, or burnt to death in burning houses. Where a victim was found not in his house but on the road or in the fields some distance away, he was murdered and burnt there. Infants with their mothers, pregnant women and frail old people were also murdered. In short, every civilian met with by these troops in these villages was murdered. In many cases, whole families who, not expecting such treatment or lacking the time for escape, had remained quietly in their homes were annihilated and murdered. Whole families were thrown into burning houses in many cases and thus burnt.

It has been established from the investigations entered upon that 121 persons, mostly women, and including 30 persons aged 60-92 years and 29 children of ages ranging from 6 months to 14 years, were executed on this occasion in the horrible manner narrated above.

The villages” - and then follows the list of the villages - “were burnt down and razed to the ground.”

Then it accounts for the destruction of furniture. Besides this the German soldiers drove all the cattle away from the villages and plundered jewels and money before burning these villages. Then over on the next page:

“For all of these most serious war crimes those responsible besides the actual culprits - the members of the SS division ‘Prinz Eugen’ - are all superior and all subordinate commanders as the persons issuing and transmitting the orders for murder and devastation.

Among others the following war criminals are known: SS-Gruppenfuehrer and Lieutenant-General of the Waffen SS Phleps, Divisional Commander, Major-General of the Waffen SS von Oberkamp, Commander of the XIII Regiment, later Divisional Commander, Major-General Schmidhuber, Commander of the XIV Regiment, later Divisional Commander, SS Standartenfuehrer Bachmann, SS Sturmbannfuehrer Diltsche, the Commander of the Italian 16th Regiment” - and then there follow the names of about another ten high-ranking German SS regimental and other commanders.

THE PRESIDENT: Well, should you not ask whether they are Waffen SS?

BY MR. ELWYN JONES:

Q. Those men, witness, were members of the Waffen SS, were they not? Just look at the names.

A. I know some of these names. They were leaders in the Waffen SS.

Q. Let us take them in turn: Phleps, Divisional Commander?

A. Yes.

Q. He was a Lieutenant-General like yourself; was he not one of your colleagues in the Waffen SS?

A. Yes.

Q. Lieut.-General of the Waffen SS von Oberkamp Ritter Karl ... he was an SS, was he not?



Two Waffen-SS soldiers resting during a lull in the Warsaw uprising, August 1944.

A. I know the next two names: Schmidhuber and Diltzsche. The rest of the names I do not know.

Q. But you do not deny from the description of them that they were officers in the Waffen SS?

A. I would assume so, even though I do not know the origin of this report. These are most likely reports which originated in an oral manner and were put, together somehow.

Q. I will not trouble you with the value of the reports as documents, witness. That is a matter for the Tribunal.

Now I want you to listen to documents which I am putting in on behalf of the Polish Delegation, again relating to the SS.

The first series of documents relates to the shooting of hostages on the command of SS functionaries and by SS men. The first is Document 4041-PS, which will be Exhibit GB 556, which consists of 31 posters for the years 1943 to 1944, signed by the Chief of the SS and Police in Warsaw, or in some cases by the Commander of the Security Police and of the SD for Warsaw, announcing the killing of hostages.

MR. ELWYN JONES: The Tribunal will see that in those grim records of murder there are listed varying numbers of the victims of the Nazi occupation. In Poster No. 25, for instance, on Page 16, there is a list of 270 shot hostages.

Poster 29, Page 20, there are 200 shot hostages; Poster 31, Page 26, there are 100 hostages. These SS shootings were certainly not an original SS conception. I hand in the two documents, 4038-PS and 4039-PS, which are -

THE PRESIDENT: Mr. Elwyn Jones, I think you should ask the witness whether ... or put it to him, whether there is any connection between the Waffen SS and this document.

MR. ELWYN JONES: If your Lordship pleases.

THE WITNESS: Unfortunately I have an English copy before me. I am not completely conversant with the English language and could not follow the question, but I gather that these are all measures which were taken in Warsaw. Just as in the case of the first document which dealt with the Warthegau, the Waffen SS had nothing to do with Warsaw. These were definitely things -

THE PRESIDENT: Wait until you are given the proper copy.

MR. ELWYN JONES: I am not suggesting, naturally, my Lord, that all the documents I am putting in relate only to the Waffen SS branch of the SS organization. The whole prosecution's case on the SS is that there was a unity between the various sections of the SS.

THE PRESIDENT: Yes, but you should give him the opportunity of making his point if he wishes to.

MR. ELWYN JONES: Yes, your Lordship.

BY MR. ELWYN JONES:

Q. Have you had an opportunity of looking at those posters now, witness?

A. I have seen that the signatures are only those of SS and Police Leaders, who had nothing to do with the Waffen SS, as I have already stated earlier today.

The same applies to the incidents in the Warthegau where, in November of 1939 there were no units of the Waffen SS. Documents 3 and 4 are the only ones that apply to the Waffen SS where they mention the "Prinz Eugen" SS Division. I cannot check the data on that since I have never been to the Balkans.

THE PRESIDENT: Was the "Teufel" Division also Waffen SS? Was it Keitel's division?

THE WITNESS: No. There never was a "Teufel" Division.

BY MR. ELWYN JONES

Q. You say there never was a "Teufel" Division in Yugoslavia?

A. Not in the Waffen SS, no.

MR. ELWYN JONES: I shall call some subsequent testimony with regard to that, my Lord, if the Tribunal would allow me, at a later stage, to cross-examine on the whole question of the unity of the SS. It would involve putting in old documents and I understand that there was a certain reluctance on the part of the Tribunal to permit me to do that; but I should be quite content to draw the Tribunal's attention -

THE PRESIDENT: Mr. Elwyn Jones, the Tribunal does not desire you not to cross-examine but only not to read out and put to the witness documents which have already been put in; you can put the facts which are in the document to the witness for the purpose of cross-examination.

MR. ELWYN JONES: If your Lordship pleases. Then at a later stage in my cross-examination I will return to that subject if the Tribunal permits me to do so. I should like to put these documents in first if I may.

THE PRESIDENT: Mr. Elwyn Jones, I think what the Tribunal meant was that it did not want you to put long passages or short passages from documents which the witness has never seen and which are already in evidence, but you may cross-examine the witness upon any document apart from that.

MR. ELWYN JONES: If your Lordship pleases. Then I shall return to cross-examination on this general issue after I have put these documents in, if I may, my Lord.

I put in the Documents 4038—PS and 4039-PS, to be Exhibits GB 557 and 558, which show that the SS shootings in Warsaw were a continuation of the practice of the civil power of the Government General from the period March, 1941. I need not trouble the witness with those documents.

Then the Document D-956, to be Exhibit GB 559, which is an official Polish report on German crimes in Poland. I only desire to draw the Tribunal's attention to an entry on Page 184 of that report relating to the shooting of hostages, which says that the approximate number of Poles

killed in Warsaw from the beginning of the public executions until the rising, from 5th October, 1943, until 1st August, 1944, was about 8,000, most of whom had been caught in man-hunts in the Warsaw streets.

DR. PELCKMANN: Your Lordship, may I be permitted to make a reference to the method of procedure?

Mr. Jones said that he does not wish to submit to the witness this document which he is submitting to the High Tribunal. I am of the opinion that a submission of documents is possible at this stage only in connection with the cross-examination; that is, for ascertaining whether the statements of the witness are credible or not. Otherwise, the prosecution could introduce new incriminating material without any connection. I should like to ask in that case to give the witness an opportunity to comment.

MR. ELWYN JONES: I have no objection at all, of course, to the witness seeing all the documents. I was only, in the interest of time, referring to one sentence in this document which the witness heard interpreted, and I should have thought that was sufficient; but by all means, I will let the witness see all the documents.

THE PRESIDENT: Dr. Pelckmann, the Tribunal has already ruled that these documents can be put in in this way, and Mr. Elwyn Jones is referring to specific passages in the documents; you have the opportunity of re-examination and you have a copy of the document, and you can put any question you like upon the document when you come to re-examine.

MR. ELWYN JONES: I next present some documents relating to atrocities committed by the SS in connection with the destruction of Warsaw. First is Document 4042-PS, which will be Exhibit GB 560, which consists of three affidavits from another official Polish report entitled "The German Crime in Warsaw in 1944."

The first affidavit is by the witness Alexandra Kreczkiewicz, who states that:

“On 2nd August the SS men issued an order for us to move to the house across the road; our house, as well as the house next door, was set on fire; on 3rd August we were informed that we would be shot. Several hundred persons were assembled in the house; on 4th August at 11 a.m. the Germans surrounded the house and gave the order to evacuate apartments. There were awful cries of children and women and we heard some shots, several persons were killed and wounded at the exit; we were driven to potato fields and, still guarded, we were ordered to lie down; there could be no question of escape. A few minutes later we were ordered to get up and we were driven under a bridge which was near by. At the question of one of the women where we were being taken to, we heard the answer, ‘German women and children are perishing by your fault; therefore all of you must perish.’ We were put in ranks and a group of seventy people was separated from us and ordered to go behind the bridge on the hill; the rest, including myself, were put against the wall between barbed wires. From different points near by we heard shots; we were huddled together and I was on the outer edge of the crowd. At a distance of five metres in front of us, one of the soldiers very quietly loaded his machine gun; another one was preparing his camera. Several Germans were guarding us; we heard several shots, noises, groans - I fell down wounded and lost consciousness. After a while I came back to my senses and I heard how they were finishing off the wounded. I did not move and I simulated death; they left one of the Germans on guard and the rest of them went away. The soldiers set fire to the huts and the houses in the neighbourhood. I was scorched by the heat and almost suffocated by the smoke and my dress smouldered. The German was still on guard so, quietly, I tried to put out the fire on me.”



This famous photograph of the destruction of the Warsaw Ghetto had an original German caption reading “Forcibly pulled out of dug-outs.” The SS soldier on the right holding the gun was later identified as Josef Blösche. He was finally brought to trial in 1969, found guilty of war crimes and executed.

Then she describes how she ran to a cellar and she says -

THE PRESIDENT: This is a woman, is it?

MR. ELWYN JONES: This is a woman. At the end: "The group of people shot in my presence numbered some 500 persons, of whom no more than three or four managed to escape. All the executioners were SS men."

The next is an affidavit from the witness, Bronislav Dylak, who describes the SS atrocities in a hospital in Warsaw:

"Very badly wounded in the stomach, I was placed in the Field Hospital, Długa Street 7. On 7th September, 1944, the Germans ordered the nurses and those of the inmates who were able to walk to abandon the hospital, leaving behind the badly wounded. I was in this latter group and we stayed in the ward situated in the cellar. In the whole hospital there were a few hundred sick and badly wounded who could not abandon the hospital. Shortly after the nurses had left the hospital in the evening the German SS arrived; shooting started. First those who, with a superhuman effort, left their beds and dragged themselves to the doors and the staircases to get out and save themselves were immediately killed by the Germans. Two murderers burst into our ward. One had a candle in his hand - it was already dark. The other, with a pistol, shot and killed the men lying in bed, while shouting 'Bandits.' Together with a few of the inmates of our ward, I was saved because the passage to our beds was obstructed by other beds. Our ward consisted of two different parts; I was in the second smaller part, the entrance to which was obstructed. In the first part, all were killed; the second ward was saved by a pure miracle, maybe because somebody was calling the murderers away. We heard many shots from the other wards. The execution went on throughout the hospital. One of the other many Germans checked whether everybody was dead. So we simulated death; one of my comrades lying near me stained himself with blood on his chest and head in order to simulate death. One of the Germans, speaking Ukrainian, went about among the killed and struck them in their faces with his gun. It was a

terrible night. Once a hand grenade was thrown through the window into our ward. Finally the building was set on fire. The fire spread very quickly; those who tried to escape were killed. A woman in our ward tried to push the inflammable stuff away from the exit and to prevent our ward from catching fire. All other wards, as well as the staircase, were on fire; the smoke, the smell of burning corpses, indescribable thirst ...” And then the last sentence: “Thus, out of several hundred badly wounded at the hospital in Długa Street 7, only a few score were left alive.”

And the third affidavit is by Maria Bukowaka, who states that:

“On 7th August, 1944, by order of the SS, the people of the whole district had to abandon their houses, which were immediately set on fire. There were several thousands of us who were driven and pushed about by the SS. All who fell down, as well as anyone who tried to help them, were beaten.” And further on in the statement: “We go farther on; there is shooting once more. A car full of SS men approaches; the officers get out. They inspect us and take away from our ranks three young, pretty girls; two sisters N. and another girl, unknown to me. The car goes away, the girls cry out, trying to defend themselves against the SS men. An old woman falls down, she cannot go on any more. An SS officer shoots her in the neck.” And then at the last: “In a church at Wola the rest of our belongings are taken away from us. All the young girls, sometimes no more than 12-14 years of age, are left behind, while the older ones, with the children, are led to the western station and then by railway to Pruszkow.”

BY MR. ELWYN JONES:

Q. Those were crimes of the SS, were they not, witness?

A. That was not the Waffen SS, only a group of men who belonged to Himmler who had nothing whatsoever to do with the fighting troops. We never fought at Warsaw.

Q. Are you denying that the Waffen SS took part in the destruction of Warsaw?

A. I was never there and therefore I cannot comment. But to my knowledge, there was no fighting there. A riot was quelled there, as several witnesses have testified.

Q. It was a revolt and then the mass extermination by the SS troops, that is what happened in Warsaw, was it not?

A. The Waffen SS participated only to a very small extent because the Waffen SS was in the fighting line.

Q. I next put in Document D-954, to be Exhibit GB 561, which are depositions by Professor Tomkiewicz of the University of Warsaw and Dr. Lorentz, Director of the National Museum in Warsaw, on the looting and deliberate piecemeal destruction of Warsaw by German formations including SS men.

The next document, 2233-DD-PS, is a further extract from the diary of the defendant Frank showing the co-operation between the SS and the civil power in the course of this murderous event.

THE PRESIDENT: What is the reference?

MR. ELWYN JONES: 2233-DD-PS, my Lord, Exhibit GB 562. That is an entry from the diary of the defendant Frank of 16th October, 1944.

“The Governor-General receives SS Oberfuehrer Dierlewanger and SS Untersturmfuehrer Ammann in the presence of SS Sturmbannfuehrer Pfaffenroth. SS Oberfuehrer Dierlewanger reports to the Governor-General on the employment of his combat group in Warsaw. The Governor-General thanks him and expresses his appreciation of the model employment of his combat group in the fighting in Warsaw ... Lunch on the occasion of the presence of SS Oberfuehrer Dierlewanger.”

Now, Dierlewanger was the commander of the units operating in Warsaw, was he not?

THE PRESIDENT: Can you offer any evidence as to what units these officers were commanding?

MR. ELWYN JONES: I am just going to put it to the witness, my Lord.

BY MR. ELWYN JONES:

Q. Dierlewanger was the commander of the units operating in Warsaw, was he not?

A. Dierlewanger was a commander of a picked troop of men from the concentration camps. He had no connection with the Waffen SS. I did not meet him personally nor his troops so I can give no further testimony from my own knowledge.

Q. Were the officers of his units SS men?

A. I cannot give you information as to that for I do not know these units.

Q. I shall be producing further documentary evidence on this issue - at a later stage, my Lord.

Now I want to put in an affidavit dealing with the participation of the SS in the extermination of the Jews and this part will be specific evidence as to the participation of the Waffen SS. The first is D-939, Exhibit GB 563. That is an affidavit by Izrael Eisenberg, and he states:

“I lived in Lublin and from there I was sent to Maidanek in the beginning of 1942. However, as a prisoner I continued to work for the Germans who employed me as an expert for electro-mechanical jobs in the various SS buildings and SS offices in Lublin. I worked as an electro-mechanic in the palace building of the SS and Police Chief Globocnik and in the head quarters of the SS in Lublin, Warsaw Street 21. The Waffen SS were also there. On the outer wall the notice ‘Waffen SS’ could be seen and on the pass which I received at the entrance the words ‘Waffen SS’ were also marked. I knew all the officers, for instance, Oberscharfuehrer Riedel, Rottenfuehrer Mohrwinkel, Unterscharfuehrer Schramm. I know that the leaders of the Waffen SS, as well as the regiment of the Waffen SS whose seat was in the same building where I worked, participated directly in all

the expulsions of the Jews from the district of Lublin. In these expulsions thousands of persons were killed on the spot and the rest sent away for extermination. I myself saw how, in the winter of 1941, the 'Waffen SS' of Warsaw Street 21 participated in the deportation of several hundred Jews to Maidanek, whereby several persons were killed on the spot. At that time my father was also deported because of his long beard, as this action mainly concerned Jews with beards. I know that Rottenfuehrer Mohrwinkel directed this action and was promoted to the rank of Untersturmfuehrer for it. I worked for the Waffen SS until November 1942, i.e., until I was transported to Radom. The Waffen SS participated the whole time in all the crimes of the SS in Lublin and in the district. I wish to point out that the SS men kept their horses in the stables on the aerodrome where there was a notice 'Mounted Regiment Waffen SS'."

Then the next document is D-953, which will be Exhibit GB 564.

THE PRESIDENT: I think you should give the witness an opportunity to speak about this document if he prefers.

MR. ELWYN JONES: If your Lordship wishes.

BY MR. ELWYN JONES:

Q. Witness, you heard me reading out of that last affidavit of Izrael Eisenberg. You see that he alleges that the Waffen SS participated directly in the collection of Jewish people for extermination and he refers to the Mounted Regiment of the Waffen SS ... that was in the Lublin district engaged in these operations. These were men of the Waffen SS, were they not?

A. The names that were read off were not the names of officers. They are names of Rottenfuehrer and Scharfuehrer. Of course I do not know the names of every man in a unit. I have no proof that they were members of the Waffen SS. In 1942 the front lines were not in Lublin but were quite a bit farther to the east. Perhaps they were replacement troops. The term

mounted unit was mentioned once and that was a replacement troop of a mounted brigade about which I cannot give you further particulars.

Q. Are you merely seeking to distinguish between Waffen SS that were engaged in action on the lines and SS units engaged in other activities on the rear? Do you not think -

A. Normally only troops of the replacement units can be used behind the lines because the other units were constantly at the front.

Q. This affidavit establishes perfectly clearly that these were SS troops, does it not? What other troops could they be?

A. Riders of the Waffen SS could have been men of an Einsatz group who had a task behind the lines.

Q. You mean they were masquerading under the name of the Waffen SS units?

A. This is not probable.

“A few weeks after the entry of the German troops into Radom, police and SS authorities arrived. Conditions became immediately worse. The house in the Zeromskist where their headquarters were became a menace to the entire population. People who were walking in this street were dragged into the gateway and ill-treated by merciless beatings and by the staging of sadistic games. All SS officers, as well as the men, took part in this. Being a physician, I often had the opportunity to give medical help to seriously injured victims of the SS.

After a short time the SS uniform became a menace to the population. I myself was beaten up until I bled by four SS men in the street in spite of my doctor's armlet. Later on two ghettos were established in Radom. In August, 1942, the so-called 'deportation' took place. The ghettos were surrounded by many SS units who occupied all the street exits. People were driven out to the streets and those who ran were fired at. Sick people at home or in hospitals were shot on the spot, among others also the sick people who were in the hospital where I was working as a doctor. The total

number of people killed amounted to about 4,000. About 3,000 people were spared and the rest - about 20,000 people -were sent to Treblinka. The whole action was directed and executed by the SS. I myself saw that the SS staff were on the spot forming groups and issuing orders. In the streets and in the houses SS men ill-treated and killed people without waiting for orders. After the 'deportation,' the remaining group of people were massed in a few narrow lanes and we came under the exclusive rule of the SS and became the private property of the SS who used to hire us out for payment to various firms. I know that these payments were credited to a special SS account at the Radom Bank Emisyjny. We were visited by SS men only. Executions carried out by the SS in the ghetto itself were a frequent occurrence. On 14th January, 1943, another 'deportation' to Treblinka took place. On 21st March, 1943, there took place throughout the whole district the so-called action against the intelligentsia, which action, as I know, was decided upon in an SS and Police Leaders' meeting in Radom. In Radom alone about 200 people were shot at that time; among others, my parents, my brother and his nine-months-old child met their deaths. On 9th November of the same year all Jewish children up to 12 years of age as well as the old and sick were gathered from Radom and from camps situated near Radom and shot in the Biala Street in Radom. Both SS officers and other ranks participated in this. From March, 1943, I stayed 18 months in Blizyn Camp. The camp was entirely under the SS and the Radom Police Chief's control. Its commandant was Untersturmfuehrer Paul Nell. The guards were composed of SS privates and N.C.O.s. The foremen were Waffen SS men who had been wounded at the front. Both behaved in a inhuman manner by beating and ill-treating us. Shootings of people were frequent occurrences. Originally sentences were passed by the SS and Police Fuehrer, later on by the camp commandant. The SS other ranks knew very well about the bloody deeds which were committed by the SS in Poland, in particular they told me personally about mass murders of Jews in

Maidanek (in November, 1943). This fact was no secret. It was common knowledge among the civil population as well as among the lowest-ranking SS men. When the camp was taken over by the Maidanek concentration camp, new guards were sent to our camp, but there was no difference between them and the previous ones. In July, 1944, the whole camp, including myself, was sent to Auschwitz Camp, which could be entered only by SS men. The conditions of this camp are well known. I escaped during the evacuation of this camp into Germany. On the way, the SS escort machine gunned exhausted prisoners and later on the rest of the marching column. Several hundred people were killed at that time.”

Now, witness, throughout that affidavit the participation of the SS troops is underlined. Do you deny the SS participated in the murders of Jewish people in view of affidavits like that?

A. The police and SS were specifically mentioned in this document and there is no Waffen SS in those places where the police worked with the SD. I have emphasized several times in connection with the camps which have been named that they had nothing in common with the SS except, most unfortunately, the name.

Of all the examples cited by the prosecution’s attorney I must admit only that the “Prinz Eugen” and mounted units are members of the Waffen SS. Beyond that, I cannot tell anything on the basis of my own experiences.

THE PRESIDENT: Will you read the last paragraph to him?

MR. ELWYN JONES: The last paragraph may help you on this. “I emphasize that during the few years of war, being a Jew and a doctor, I met a great number of SS men from the Waffen SS as well as other formations and of various ranks, but I must state that I noticed no difference between them as far as their inhuman attitude towards the civilian population was concerned.”

BY MR. ELWYN JONES

Q. The Waffen SS was always the cause for any of these actions of the executive against the local population. That was its function, in the whole certainly -

A. No, the Waffen SS was incorporated into the Army.

Q. Did you ever, on this particular point, see Hitler's directive about the future of the SS?

A. I did not understand your question.

Q. Did you ever see Hitler's directive?

A. I am not familiar with the directives by Hitler regarding the future of the SS.

Q. In that directive which is, I think, familiar to the Tribunal - it is Document D-665, Exhibit GB 280 - Hitler points out that the function of the Waffen SS is to be the spearhead of Nazism to be used as an agent for effective action against resistance at home and against opposition in foreign countries. Did you not see those instructions of Hitler's on the role of the Waffen SS?

A. Is that perhaps a directive sent by Hitler to the military offices dealing with the future of the Waffen SS after the war?

Q. That was a directive of 1941 which was distributed to regimental units and was made available to the Waffen SS. I have not got the document available at the moment. Do you say you never heard of that?

A. No, I know of only one order, which was an oral one, and which contained the measures and intentions in regard to the organization after the war; a directive which went only to the various Army units.

THE PRESIDENT: Perhaps this would be a convenient time to break off.

(A short recess was taken.)

MR. ELWYN JONES: If your Lordship pleases, I want to make a slight correction of the exact numbers of these documents.

Document D-953 was put in twice as Exhibit GB 564 and 565. D-953 will be 564 and the next document - D-955 - will be Exhibit GB 565.

THE PRESIDENT: The last document you mentioned will be what - 564, 565? You mentioned some other document after that.

MR. ELWYN JONES: The next document, D-955, which I am just putting in, will be Exhibit GB 565. This is a final affidavit from a Jewish merchant, Mojzesz Goldberg, and it reads:

“On 23rd June, 1941, I was called up into the Soviet Army in Lemberg, In the middle of July I was taken prisoner by the Germans. At a locality five kilometres from Podwoloczysk the SS companies sought the Jews out of the whole mass of prisoners and shot them on the spot. I remained alive as they did not recognize me as a Jew. I stress the fact that it was the Waffen SS who did this.

After my captivity was ended, I lived in Radom and worked from June, 1942, to July, 1944, for the Waffen SS at three places: the SS Veterinary Reinforcement Detachment, Koscinski Street, the Garrison Administration of the Waffen SS, Planty 11, and the Building Directorate of the Waffen SS, Slowacki Street 27. As I worked so long for the SS, I know the names and faces of all the officers and N.C.O.s of the above named detachments of the Waffen SS very well. At the head of the SS Veterinary Reinforcement Detachment were Sturmbannfuehrer Dr. Held and Hauptsturmfuehrer Schreiner; at the head of the garrison administration there was Obersturmfuehrer Grabau (at present in Dachau Camp) and at the head of the Building directorate, Oberscharfuehrer Seiler. All the persons mentioned took a direct part, together with their companies; in carrying out the expulsions in Radom on 5th, 16th, and 17th August, 1942, during which some thousands of people were shot on the spot. I know that the SS Veterinary Reinforcement companies went into the provincial towns to carry out the ‘expulsions’ of the Jews. I heard individual soldiers boasting about the number of Jews they had killed. I know from their own stories

that these same companies participated in the actions against Polish partisans and also set the surrounding Polish villages on fire.”

BY MR. ELWYN JONES

Q. Witness, do you still say that the Waffen SS had no part in the atrocities that were committed in Poland?

A. It is my impression that this document is not credible. How could units of veterinary companies participate in such measures? I cannot say any more than that because I do not know the particular units.

Q. It is a document by a man who worked for two years for the Waffen SS, who knew them personally, who spoke to them. He is a man of thirty-six years who suffered at their hands and he has mentioned in detail whatever the Waffen SS units are concerned with. Do you still say that the Waffen SS had no part in these matters?

A. These are units in the rear, which apparently did not belong to the Waffen SS. I cannot say more than that.

BY THE PRESIDENT:

Q. Do you know the names of any of the officers who are mentioned in this letter?

A. No.

Q. Have you ever been in Radom?

A. No.

Q. Do you know whether there were Waffen SS at any of these places named in this affidavit?

A. I did not understand, your Lordship.

Q. Do you know whether there were Waffen SS headquarters of units at any of the places named in that affidavit?

A. The units which were mentioned cannot, to my knowledge, have been stationed there; nor any headquarters, either.

Q. Well, the person making the affidavit states the units which were quartered at particular places in Radom and what I was asking was, whether

you knew what units were stationed at those places?

A. No, that I cannot say.

BY MR. ELWYN JONES:

Q. Witness, you have said that the Waffen SS units respected International Law and committed no atrocities in the field.

With your permission, my Lord, I am now proposing to hand in a summary of the charges submitted to the United Nations War Crimes Commission by the National Commissions of the various countries which suffered at the hands of the Waffen SS. In addition to this summary, I can hand in certified true copies of the charges themselves which set out the facts of the incidents that are complained of. I submit that such charges and such summaries have probative value. It is true that the charges themselves have not yet resulted in trials and that the culprits named have not themselves been tried. The reasons for that are manifold, but I do submit that these summaries of charges have probative value and I invite the Court's ruling with regard to them.

THE PRESIDENT: Perhaps you can tell us a little bit more about the nature of the documents you are seeking, to put in evidence?

MR. ELWYN JONES: The documents I am seeking to put in evidence set out, under the names of the various Waffen SS divisions, the unit involved, the date of the commission of the offence complained of, the place, the nature of the incident itself, and the source of the information. They are from the files of the United Nations War Crimes Commission, or a SHAEF Court of Inquiry which put the matter up to the United Nations War Crimes Commission.

THE PRESIDENT: As to the evidence, it is only a reference. It does not contain the evidence or summary of the evidence, does it?

MR. ELWYN JONES: It contains the summary of the evidence. The certified charges which I shall hand in to the Tribunal contain much fuller

details than the summary itself I intend to use on the witness. There is no objection to your Lordship's looking at one of them.

THE PRESIDENT: Mr. Elwyn Jones, are you submitting the reports under Article 21 in any way?

MR. ELWYN JONES: That is my submission, my Lord. They are official reports submitted by the national authorities to the United Nations War Crimes Commission and they embody evidence of witnesses and are reduced into summary reports formed as charges.

If your Lordship would care to look at one of the charges as an illustration without prejudice to the question whether it would admit the document or not, it might be helpful. If your Lordship pleases, my learned friend Sir David Maxwell Fyfe is in a position to list the arrangement of the United Nations War Crimes Commission with regard to these charges and it might be helpful if Sir David would indicate the machinery to the Tribunal.

SIR DAVID MAXWELL FYFE: My Lord, one might commence with Article 21 that says: "It - the Tribunal - shall also take judicial notice of official governmental documents and reports of the United Nations, including the acts and documents of the committees set up in the various Allied countries for the investigation of war crimes." My Lord, the procedure which was set up was that the United Nations War Crimes Commission under the chairmanship first of Lord Finley, and then of Lord Reiter, would gather the material, examine it, and send it back to the respective prosecuting nations. The procedure was that the National Office sent a report to the United Nations War Crimes Commission who then considered it and sent it back to the authority in the various countries that dealt with the prosecution of the crimes. My Lord, what is being put forward at the moment is a synopsis of the report sent by various countries to the United Nations War Crimes Commission, in the form of the suggested charges that should be brought and a summary of the supporting evidence. These are available and authenticated, and the document which

we should like to use, for the convenience of the Tribunal, is a synopsis of these charges, showing the unit, the date, the place, the incident, and the source, including the United Nations War Crimes Commission's files.



The Waffen SS Division "Das Reich" during the battle of Kursk.

THE PRESIDENT: But, Sir David, as I understand what you said, these documents, of which this is a summary, would come forward to the United Nations War Crimes Commission for some action by them, for some form of approval, after which they would send them back to the countries concerned and they would be sent to a Tribunal for the purpose of trying those individuals whom the United Nations War Crimes Commission approved the trial of: This is a summary of charges which has not been approved by the United Nations War Crimes Commission.

SIR DAVID MAXWELL FYFE: They may or may not. It is the earlier stage of a report of the United Nations War Crimes Commission. Each of the United Nations had its National Office for investigating and reporting on war crimes. That was an essential step which the National Office had, first of all, to take - to collect the evidence, put forward the charge, and put forward that report to the United Nations War Crimes Commission. It then came back with an approval or a comment of the United Nations War Crimes Commission to the prosecuting authority of the various countries. If, my Lord, simply for the sake of clarification, I can give my own example when I was in charge of this: The British National Office was in charge of Sir Thomas Barnes, the Treasury Solicitor, who collected the reports from the various committees of inquiry. He sent these forward to the United Nations War Crimes Commission. They made their comment. It then came back to me and I decided whether there would be a prosecution or not. My Lord, I am putting this forward as an authenticated report of the United Nations. It is the committee which each country established in order to collect the evidence and to forward that evidence to the United Nations body. My Lord, what we are now submitting is the fact that each of the United Nations, by an authoritative committee, collected the evidence, summarised the evidence, and put it forward, which in its form, does ipso facto give it probative value.

THE PRESIDENT: You say, do you not, that it falls exactly within the words of the 3rd last line of Article 21. It says, in the following words, “documents of the committee set up in various Allied countries for investigation of war crimes”?

SIR DAVID MAXWELL FYFE: That is so, yes.

THE PRESIDENT: The Tribunal would like to look at the document and see just exactly what is its make-up. Do you have an original document?

SIR DAVID MAXWELL FYFE: My Lord, this is one which is certified by Colonel Leningham, the Secretary-General of the United Nations War Crimes Commission.

My Lord, here is one which has been accepted by the United Nations War Crimes Commission, as many of them have.

THE PRESIDENT: We have looked at the document. Now, before the Tribunal adjourns for the purpose of considering this matter, they would hear anything further you wish to say, Sir David.

SIR DAVID MAXWELL FYFE: My Lord, I would call your attention to the number, of course, that had reached the stage of being approved by the United Nations War Crimes Commission. That would be necessary to my argument.

THE PRESIDENT: What you are asking is that you wish to make use of the summary which you have?

SIR DAVID MAXWELL FYFE: I want to make a comment.

THE PRESIDENT: The approval of the decision rests with the national authority?

SIR DAVID MAXWELL FYFE: When I was the Attorney-General, it rested with me. I understand the same procedure is in effect in other countries where it rests with the national authority.

THE PRESIDENT: Yes, Dr. Pelckmann.

DR. PELCKMANN: Whether the evidence which is now before the prosecution is available in the appropriate form and whether, as a report from Allied Governments or from the United Nations War Crimes Commission, it can be used according to Article 21, is something which I cannot personally judge. I leave that confidently in the hands of the Tribunal. What appears important to me is that according to Article 21 the High Tribunal can take cognizance of these things but, in my opinion, only during the prosecution's presentation of evidence. We are now in the middle of submitting evidence for the defence and if the prosecution is making these reports the subject of its cross-examination, then there does not seem to be any objection to that, according to rules of procedure. But, if it is only a judicial notice on the part of the Tribunal without making these reports a part of the cross-examination, I do not think it permissible for the SS witnesses who are being called to define their attitude to these documents.

THE PRESIDENT: Is not that really a matter for the Tribunal to decide? It is a matter of whether the documents should be put in now when the witness can comment on them. Whether it comes under Article 21 is a matter to be decided, that is a matter of law. Whether it should be put in now or after seems to be a matter entirely for the Tribunal.

DR. PELCKMANN: I consider it important to say that if the High Tribunal accept these reports as evidence under Article 21, then, as I see it, I can only assume that the presentation of evidence by the prosecution has been completed in order to put it before the witness. If the documents are put to the witness, I would consider it just if, in view of the extraordinary bulk of the documents, the defence be given sufficient opportunity to prepare itself for examination on these documents. That would take at least two days. To use these documents only for recognition by the Tribunal without examining the witness is, I think, not permissible, since the presentation of evidence by the prosecution has been completed and this

would be an inadmissible extension of the material for one side and a limitation for the other.

THE PRESIDENT: The Tribunal will consider what you say. The Tribunal will adjourn.

(A recess was taken).

THE PRESIDENT: The Tribunal does not in any way accept Dr. Pelckmann's submission that it is inconvenient or unfair to the defence that documents should be put in at this stage. It considers that in all the circumstances of the case and having regard to the late stage at which the trial has arrived, and having regard to the nature of the document which is offered in evidence by the prosecution, the Tribunal ought not to admit the document now.

CROSS EXAMINATION BY MR. ELWYN JONES:

Q. Witness, with what division of the Waffen SS did you serve during the course of the war?

A. For two years I led the Second Division and later -

Q. Just one moment. What was it called? What was its name?

A. The division later was called "Das Reich." Formerly it had the name "VD-Division" and from 1942 to 1944, it was the Second SS Panzer Corps. From 1944 I was in the Army again.

Q. I do not want to leave the "Das Reich" Division for a moment. During what period were you serving with the "Das Reich" Division?

A. I did not understand exactly.

Q. In what periods were you serving with the "Das Reich" Division? From what date?

A. Beginning with its setting up in 1939 until I was wounded a second time in October, 1941.

Q. You did not return to serve with that division at all?



The Waffen-SS in the Soviet Union, 1941. The Totenkopf symbol can be clearly seen on the right.

A. I no longer served with that division because I was then Commanding General and Supreme Commander of an army.

Q. So that the "Das Reich" Division was the only division you served with in the field as a Divisional Commander, was it?

A. No, there were others there after me who commanded.

Q. But the "Das Reich" was the only division which you commanded personally during the course of the war?

A. During the time when I was Divisional Commander I was the only commander of this division.

Q. Did you command any other Waffen SS Division apart from "Das Reich"?

A. There were two and later three divisions which belonged to my Panzer Corps.

Q. What were those divisions?

A. There was the First Division, the "Leibstandarte," the Second Division, "Das Reich," and the Third, the "Totenkopf Division." Later, in 1944, the 9th and 10th Divisions belonged to it.

Q. What were the names of these divisions?

A. The names were "Hogenstaufen" and "Goetz von Berlichingen"; I beg your pardon, "Frundsberg."

Q. During what period was the Leibstandarte Division under your command?

A. The "Leibstandarte" was under my command from the beginning of 1943 about the end of January, until the beginning of August.

Q. From January, 1943, to August, 1943?

A. Yes.

Q. You were in command of that division when it was fighting near Kharkov, you were in command of the corps, rather, in which the Leibstandarte Division was, when it was fighting near Kharkov in the spring of 1943, were you not?

A. The division was under my command during the fighting around Kharkov.

Q. Have you any knowledge of the fact that Staroverevka, the town, was burned by the Second Regiment of the Leibstandarte Division?

A. No, I know nothing of that.

Q. And that that regiment also burned down Stanitschnoje?

A. No, that I do not know.

Q. And that it burned down Jefremovka, murdering the civilian population, in the spring of 1943, near Kharkov?

A. I do not know that and I cannot believe it either, because the fighting at that time did not allow for any tasks other than military ones.

Q. Fighting did not give your troops time to burn down villages as they went through - are you saying that? That was one of the outstanding characteristics of your form of warfare on the Eastern Front, was it not?

A. No, I deny that. The conception of "scorched earth" was not created by us. If villages went up in flames during the fighting, that is often unavoidable. I do not believe that the villages were set on fire intentionally because it was in the interest of the operations we were carrying out that these villages be retaken.

Q. It was because of incidents like those burnings that Himmler was telling the officers of your three SS divisions of the terrible reputation they had created, was it not? Those were typical instances of your form of warfare on the Eastern Front, were they not?

A. No, Heinrich Himmler did not say anything about that in that speech. He mentioned the terror, which I personally rejected.

Q. The "Das Reich" Division, when was that under your command?

A. The "Das Reich" Division was under my command at the same time, from the end of January, 1943, until August of the same year.

Q. Did you command it subsequently at all, as Corps Commander or Army Commander?

A. Only afterwards when I was commanding an army did the division come under my command again, in Normandy.

Q. Did you receive any reports of the numerous murders and burnings of villages that the “Das Reich” Division was responsible for in France in the month of June, 1944?

A. I know, from the Indictment, the accusation that in Southern France, during the campaign against the de Gaulle Army, there was fighting during which villages had been set on fire. At that time the division was not yet under my command. I was still in the East. I only learned of these events here during my captivity.

Q. I am referring not to villages burned during action but villages burned as punitive measures by units of your Waffen SS divisions. Did you never hear reports of these incidents?

A. I have heard of only this one case in Southern France here in the Indictment.

Q. In June, 1944, for instance, the Panzer Grenadier Regiment 3 burned the village of St-Germain-de-Belair. You know nothing of that?

A. No, at the moment I do not.

Q. And Oradour-sur-Glane? It was the “Das Reich” Division that was responsible for that atrocity, was it not, when 793 men, women and children were deliberately murdered? You never heard of the atrocities of Oradoursur-Glane performed by the “Das Reich” Division when it was a component part of your corps?

A. That name and the accusation came to my knowledge here, during my captivity, from the Indictment. Before that I had no knowledge of it. It apparently concerns an individual. company belonging to that division, which was put into action through local orders of the Field Kommandantur.

Q. Was not the Panzer Grenadier Regiment under your command?

A. No, at that time it was not yet under my command because I only returned to France from the East at the end of June.

Q. That was characteristic use of the units of Waffen SS for these terror purposes then, was it not - the very point I have been putting to you for many minutes through this cross-examination?

A. I have repeatedly stated that it was not a characteristic of this division.

Q. The Death's Head Division, when did you command that?

A. The Death's Head Division too came under my command at the same time, from the end of January, 1943, until August, 1943.

Q. Did you know that the 1st Regiment, the 7th Company of a detachment belonging to the Totenkopf Division, had in Warsaw murdered about 45,000 Jewish men, women and children. Did you not hear of that?

A. In what year was that supposed to have happened?

Q. In the year 1943, when you were commanding the corps to which this division belonged, the Totenkopf Division, with the great tradition of murders in concentration camps?

A. The division, as such, came under my command not during the fighting at Warsaw but at Kharkov. That is apparently again a confusion of the men and the guard units of the concentration camps.

Q. Did you know that the 1st Regiment of the 7th Company of the Totenkopf Division had shot forty Russian prisoners of war near Kharkov in August, 1943, for instance?

A. No, in August, 1943, the Totenkopf Division was no longer near Kharkov. It was further south at the Mius river.

MR. ELWYN JONES: Would that be a convenient time to adjourn? I have only a few more questions to put to this witness.

(A recess was taken until 1400 hours.)

PAUL HAUSER RESUMED

CROSS-EXAMINATION BY MR. ELWYN JONES:

Q. Witness, did you know that the Prinz Eugen Division had been responsible for the massacre at Lidice in June, 1942?

A. I did not understand the name of the place.

Q. It is a very famous place, Lidice, L-i-d-i-c-e.

A. No, I left the division in the year 1941 and had nothing to do with it after that time. I heard nothing about this.

Q. Did you hear the name today for the first time?

A. Yes, I rather think so.

Q. Oh, the whole world knows of the massacre of Lidice. Are you saying seriously to the Court you never heard of it? You have admitted that the Prinz Eugen Division was an SS division, have you not?

A. Yes.

Q. I want you to look at Document D-944, Exhibit GB 566, because you have said that units of the Waffen SS did not set fire to villages or commit atrocities against the inhabitants. This is a statement from the Yugoslav Commission for Ascertaining War Crimes taken from a member of the SS, Holtzer Leander, and he declares:

“In August, 1943, the 23rd Company set fire to a village on the railway line Jablabnica-Prozor by order of the battalion commander, Obersturmbannfuehrer Wagner, under the command of the company commander, Untersturmbannfuehrer Schuh. The inhabitants of the village were shot in the meantime.

“In August, 1943, on the orders of the same persons, the 23rd Company set fire to a village on the railway line Niksic-Avtovac; and the inhabitants of the village were shot. The order for the shooting came from Jablabnica and the villages were burnt down in the early morning. The shootings in Pancevo were carried out by the police agent Gross, former master-dyer, Brunn from the SS Division “Prinz Eugen” from Pancevo, a former master-miller. He received a reward of 20,000 Dinars for the hangings at the cemetery.”

Did you know members of the Waffen SS were from time to time employed for hanging prisoners?

A. It is strange that this company was called the 23rd. We had no numbering of this sort. Furthermore, I cannot tell you anything about it since I never commanded this division. The “Prinz Eugen” Division included many “Volksdeutsche” from the Balkans, German nationals resident in the Balkans; and the senior commander, Fritsch, also was a “Volksdeutscher.” I believe that the war in the Balkans bore, on both sides, a different aspect from that found elsewhere.

Q. Now, finally, I want to deal with the unity of the SS organization. I suggest to you that the Waffen SS, the Allgemeine SS, the SD, and the police branches of the SS formed one great unit of the Nazi State. Do you agree with that?

A. No. I stated again and again that this apparent unity did not exist; that we had no connection with the general SS nor with the SD but were independent under the command of the Army. Occasionally small units of the Waffen SS were assigned to tasks in the rear areas where they were subordinate to the Higher SS and Police Leader. And that seems also to have applied in Warsaw, where the rear formations of the cavalry brigade.

Q. For the purposes of discipline and promotion, the Waffen SS came under Himmler, did it not?

A. Only in juridical matters. The appointing authority for military courts was the divisional commander, but sentences beyond a fixed maximum were subject to Himmler’s confirmation.

Q. Listen to what the Leader of the SS, Himmler, says about the unity of his own organization, this armed SS. This is when he was addressing the officers of the Leibstandarte of Adolf Hitler:

“This armed SS will live only if our entire SS is alive, if the entire corps is actually an order which lives according to these laws and realizes that one part cannot exist without the other. You are not imaginable without the general SS; and the latter is not imaginable without you. The police is not

imaginable without the SS, nor are we imaginable without this executive branch of the State which is in our hands.”

That is an extract from 1918-PS.

Then he said again in 1943:

“It must so come about that this SS organization with all its branches, the general SS, which is the common basis of all of them, the Waffen SS, and the regular uniformed police, the Sipo, with the whole economic administration, schooling, ideological training, the whole question of kindred, is under the Tenth Reichsfuehrer SS one bloc, one body, one organization.”

That is from Document 1919-PS.

Is not that a true picture of the SS?

A. He does not say it was so, he says it must be so, and it should be so, because he knew that unity did not exist.

Q. Then finally I want to put to you Hitler’s ideas about the Waffen SS, Document D-665, Exhibit GB 280, which I referred to this morning.

THE PRESIDENT: You did not give us the number for that document which you said took place in 1943.

MR. ELWYN JONES: That is the famous 1919-PS, my Lord, Exhibit USA 170.

Q. These are Hitler’s ideas on the Waffen SS. He says that the Greater German Reich in its final form would not include within its structures anything but national entities who are from the very beginning well disposed towards the Reich. “It is therefore necessary to maintain outside the corps of the Reich a State military police capable of representing and imposing the authority of the Reich within the country in any situation.”

Then he goes on, “Having returned home in the ranks of the Army, having proved themselves in the field, the units of the Waffen SS who possessed the authority to execute their tasks as State police - “ That again

is a picture of the unity of the SS by the leader of the Nazi State. Are you saying that he is wrong and that you were right in this matter?

A. No, those are his ideas for the future, ideas which had not yet been realised, but which he intended to have realised after the war.

MR. ELWYN JONES: I have no further questions.

COLONEL SMIRNOV: Mr. President, I would like to put only a very few questions to this witness, as supplement to the detailed cross-examination which was conducted by my British colleague. I am submitting to the Tribunal as Exhibit USSR 520 -

THE PRESIDENT: Have you fresh matters to go into, or fresh documents to put in?

COLONEL SMIRNOV: I have a few fresh documents which I would like to submit, and in connection therewith I have a few questions to put to the witness, only three or four questions.

I am submitting to the Tribunal as Exhibit USSR 520 a summarised statement of the Yugoslav State Commission, which deals especially with the actions of the SS Division "Prinz Eugen." Mr. Elwyn Jones has already quoted documents referring to this division. This is a summarised document.

CROSS-EXAMINATION BY COLONEL SMIRNOV:

Q. I would like the witness to pay attention to Pages 3, 4 and 5 of the document, a list of the persons annihilated during one single action; these are not only the names of single persons but the names of the families which were killed by this division. Now I would like the witness to follow me while I read two paragraphs from this voluminous document. I quote Page 5 of the Russian text:

"After the murder had been carried out, these SS groups went in the direction of the villages of Srijane, Bisko, Gornji, Delac and Putisic in order to continue their mass murder and arson -"

THE PRESIDENT: Can you tell us which page it is in the English?

COLONEL SMIRNOV: Page 6, my Lord, Page 6. It is the fourth paragraph from the bottom, from the last paragraph. May I continue?

THE PRESIDENT: Yes.

BY COLONEL SMIRNOV:

Q. “After the termination of the massacre, these SS troops proceeded in the direction of the villages Srijane, Bisko, Gornji, Delac and Putisic in order to continue their mass murder and arson. All the cattle they found in the burnt-down villages were taken with them.

“The entire series of these crimes, which were committed in March, 1944, in the district of Split, stands out distinctly, because it is the climax of a brutal cynicism, which till now was unknown in the history of criminality: The criminals locked women and children in stables filled with hay and straw, delivered speeches to them and thereafter burned them alive.”

I am asking you, witness, are not these crimes against humanity in sharp contradiction to your description of the SS?

A. Of both these paragraphs I can only say that they are concerned with the Balkans. More than that, I do not know. I do not know which units are meant here. I cannot comment on the document at all.

Q. I want to submit to you another document, a statement by one of your old acquaintances. I think you will remember the name August Schmidhuber. Do you remember the name of this general?

A. Yes, I know that name.

Q. Maybe you will recall that he commanded a battalion of the division “Das Reich” in the period when you were the commander of that division.

A. He was in the division before I commanded it, and that is why I remember him, but for a long time he served in the Balkans.

Q. I would like to quote only one sentence from the statement of this major general of the Waffen SS; you will be shown this passage at once. I submitted the original to the Tribunal. Please listen to this paragraph, Page 3 of the Russian text:

“An officer responsible for the entries in the war diary told me that the commander of my first battalion, Kasserer, had a large number of citizens locked up in a church in Krivaya Reka - I emphasize ‘in a church’ - and then ordered the church to be blown up. I do not know how many persons perished.”

Do you consider this action as a very serious crime against humanity or not?

A. This appears to be hearsay, it is not the testimony of an eyewitness.

Q. No, this is the statement of the division commander, who speaks about an official report of an officer responsible for the entries in the war diary. [NB. “Officer responsible for the entries in the war diary” was translated as “war correspondent.”] It is a statement of a general of the Waffen SS, a firsthand statement and not hearsay.

A. This is a statement of a war correspondent who is apparently quoting a battalion commander. But I cannot comment on this, because I was not there, and this division was never under my command.

Q. Perhaps you can comment on the following document. I would like to show you USSR 513. Did I understand you correctly yesterday when you asserted that the SS troops did not murder hostages?

A. Yes, and moreover, I said that to my knowledge the divisions which were under my command did not even take hostages.

Q. I will read three sentences of a proclamation of Sturmbannfuhrer Breimaier, who was commanding a battalion of the “Prinz Eugen” division. Please follow me:

“On the 3rd of November, 1943, around 20.00 hours, a German soldier on the Valika Street in Sinj was ambushed and killed. Since, despite all efforts, the culprit has not been found and the population has not supported us in this matter, 24 civilian persons will be shot and one hanged. The sentence will be carried out on 5th November, 1943, at 5.30 hours.

Signed, Breimaier, SS Sturmbannfuhrer and Battalion Commander.”

I omit what follows, it is of no importance. Is this not a typical example of hostage shooting carried out by the Waffen SS?

A. I am hearing the name Breimaier for the first time. I do not know whether these people were summarily tried beforehand. If this account here is correct, then he was not entitled to give this order.

Q. Very well. Perhaps I will succeed in convincing you by photographic evidence. Will you show the witness photograph No. 7 showing two decapitations?

With the permission of the Tribunal I will read a very brief extract from the statement of the State Commission of Yugoslavia. The original which we have certified will be submitted to the Tribunal. It is now being submitted to the witness. Will you listen under what conditions these persons were beheaded?

“On 9th June, 1944, and on the following days the Waffen SS from Trieste committed atrocities and crimes against the Slovene population in the Slovene coastal area, as we have already stated above.”

I omit the next two sentences, which are cumulative.

“On that day Hitler’s criminals captured two soldiers of the Yugoslav Liberation Army and the Slovene Partisan battalions. They brought them to Razorie, where they mutilated their faces with bayonets, put out their eyes and then asked them if now they could see their comrade Tito. Thereupon they called the peasants together and beheaded the two victims before Sedej’s house. They then placed the heads on a table. Later, after a battle, the photographs were removed from a fallen German. From this it can be seen that they confirm the above described incident, namely the crime of bloodthirsty German executioners in Razorie.”

Do you not consider these acts as a typical example of crimes against humanity?

A. If they were perpetrated by men of the Waffen SS, they are crimes, but that is not proved here, and moreover, the deeds of only one of thirty-

five divisions in the Balkans would then be generalised as typical of the whole corps of the Waffen SS.

Q. Then I will show you an original German document which is Exhibit USSR 133, and which is a letter of information from the German High Command to the Italian High Command. I will quote only two sentences. You stated yesterday that the Waffen SS did not kill prisoners. Did I understand you correctly?

A. Yes.

Q. I will then ask you to listen to two sentences quoted from a German document. First, at the beginning of the page:

“The western group of the SS Division is near Ripac in front of barricades; which are being removed.”

I omit two sentences, and continue:

“As a result of the successful engagement, twenty-three dead and thirty-four wounded and more than 100 enemy dead have been counted.”

Please pay attention to the following words:

“Forty-seven captured soldiers have been shot, 363 provisionally apprehended.”

Do you not think that when a letter of information, sent from one command to another, officially states that prisoners were shot, this is a very cruel example of what became a custom of the Waffen SS troops?

A. This is a statement of a first lieutenant on crimes which an SS detachment is supposed to have committed; but no details are mentioned of the unit to which it belonged. I cannot comment on this.

Q. I believe that the number of forty-seven soldiers shot is concrete evidence. Are you of a different opinion?

A. I have no proof that men of the Waffen SS did this.

Q. Then please answer a few other questions. Do you know where in the territory of the USSR the third SS Tank Corps was engaged?

A. The third tank corps? The third? Is that a corps, a Panzer corps? I believe it was used in the southern sector.

Q. No, it was engaged in Estonia. Do you know General Steiner?

A. Yes, the commanding general was General Steiner.

Q. Do you know where the "Totenkopf" division was engaged?

A. Yes, we discussed that today.

Q. It was engaged at Demiansk, Pavlovsk and other districts of the Novgorod region, is that not right?

A. Did you say Demiansk? Did I hear that correctly?

Q. Yes.

A. Yes, one division was there.

Q. That division was commanded by Major-General Eicke, is that not right?

A. Eicke? Eicke, yes, indeed.

Q. Do you know where the "Adolf Hitler" division was engaged?

A. Do you mean at the time when the "Totenkopf" division was at Demiansk? I believe it was also in the southern sector at Demiansk - I believe that was in 1942, or 1941.

Q. This division was commanded by General Simon, is that not right?

A. Simon was the successor of Eicke, yes. That is the same division.

Q. All right. Then will you tell me when did Obergruppenfuehrer Dietrich command this division?. Was that later?

A. No, he was in command until the summer of 1943.

Q. Do you know where the 134th SS Division was engaged?

A. We did not have such high numbers.

Q. And the 97th SS Division, "Golden Lily"?

A. That did not exist, either. We had at the most thirty-five to forty divisions.

Q. But the "Golden Lily" was an SS division. Is that right?

A. I hear that name for the first time. What is the name?

Q. “Golden Lily.”

A. No, that is entirely new to me.

Q. And the storm brigade “Langemarck,” did you ever hear of that name or not?

A. There was a battalion “Langemarck,” which must also have been a part of the third Germanic Tank Corps.

Q. Do you know Sturmbannfuehrer Sehling?

A. I did not catch the name.

Q. Sehling.

A. No. No, I do not know him.

Q. And do you know Lt.-General Lueneberg?

A. Lingeberg, yes.

Q. No, Lueneberg.

A. Oh, yes, he was the Commander of the SS Police Division.

Q. Quite right, it is the name of an SS Police Leader.

A. Yes, General Lueneberg was the commanding officer of the SS Police Division.

Q. That is correct. Thank you.

Mr. President, I am submitting to the Tribunal a document of the Extraordinary State Commission about the actions which were committed by the Waffen SS troops in the occupied territories against the civilian population and prisoners of war. This document was compiled on the basis of evidence already submitted by the Extraordinary State Commission. It is signed by the Secretary of the Commission, Bogoiavlensky, and is sealed. This report might aid the Tribunal in its examination of the material already submitted by the Extraordinary State Commission.

THE PRESIDENT: Have you, Colonel Smirnov, the original of this document?

COLONEL SMIRNOV: Yes, Mr. President.

THE PRESIDENT: May I see it?

COLONEL SMIRNOV: Yes.

THE PRESIDENT: Colonel Smirnov, have you put in yet the report of the Extraordinary Commission?

COLONEL SMIRNOV: Yes, Mr. President, a series of reports by the Extraordinary State Commission has been submitted, reports about the Esthonian SSR, Kiev, Kharkov, etc. This document is a summary of the material which has already been submitted.

THE PRESIDENT: Colonel Smirnov, does this document consist of extracts from the Extraordinary Commission's report?

COLONEL SMIRNOV: No, Mr. President. Strictly speaking, it is only a list of the various units engaged in different regions of the USSR. It is not an extract from the reports by the Extraordinary State Commission, but a list of separate SS detachments engaged in the different territories. Mostly these are the facts on which the conclusions in the cases of the separate units were based. They are all mentioned in the reports of the Extraordinary State Commission which we have already put in.

THE PRESIDENT: Colonel Smirnov, I think the Tribunal appreciates that you have done this for the convenience of the Tribunal, that this document has been prepared for the convenience of the Tribunal, but the Tribunal thinks they had better refer only to the report of the Extraordinary Commission itself which has already been offered in evidence.

COLONEL SMIRNOV: Yes, Mr. President. I have no further questions to put to the witness.

BY THE PRESIDENT:

Q. Witness, what unit were you commanding at the time war against Russia broke out?

A. At the beginning of the campaign against Russia I was commander of the Division "Das Reich."

Q. "Das Reich." Where was that division stationed at the outbreak of the war?

A. It was in action in the middle sector of the Eastern Front.

Q. The middle sector of the Eastern Front. Was it employed in the original attack upon the Soviet Union?

A. The attack was west of the Beresina, and south of Brest-Litowsk. However, the division was not deployed there, it was brought up later.

Q. You mean it was not deployed there upon the first day?

A. No, it was brought up as a rear echelon unit.

Q. How long after the attack opened?

A. Yes, several divisions were drawn up at the penetration points, one behind the other, for the motorized divisions could advance on good roads only.

Q. I asked how long after the attack opened was your division deployed?

A. Only two to three days after the outbreak of hostilities.

Q. And are you telling the Tribunal that at that time or about that time you never heard of the order to kill Commissars?

A. I have already testified that we did not receive this order, and that the division did not act according to it. I know only that later on we received an order for the "separation" of the Commissars, and I have already stated that the troops had very little to do with this matter, since the Commissars were not recognized by them.

Q. You say you did not receive the order. What I asked you was: Did you hear of the order?

A. When the second order arrived concerning the "separation," I believe I heard that a previous order had gone out, but that the High Command had not transmitted it to man offices.

Q. This order to kill the Commissars?

A. That first order, of which I spoke, we did not receive.

Q. Now, when you received the second order, you said you had heard of the other order, and what I wanted to know is if the other order was the

order to kill the Commissars?

A. I did not quite understand the question.

Q. You said you received a second order to “separate” the Commissars, and, at that time you heard of the first order. What was the first order?

A. I believe that I heard of the first order to kill the Commissars, but only later, when the other order for the “separation” had already come through.

THE PRESIDENT: The witness can retire now.

DR. PELCKMANN: May I have another word, your Honour?

THE PRESIDENT: Yes, certainly. I thought you had finished.

DR. PELCKMANN: In the course of the cross-examination of this witness the British and the Russian prosecution submitted, as far as I was able to judge; twenty to thirty completely new documents. Not all of these documents were used in the questioning of this witness.

THE PRESIDENT: Dr. Pelckmann, the purpose of re-examination is to ask questions and not to argue.

DR. PELCKMANN: I am not going to do that, Mr. President. I shall not put any questions dealing with these documents to which I shall return later. But the prosecution did not put any questions either, and I am of the opinion that these documents cannot be used. One document is in the Polish language, and unfortunately, I cannot read it and therefore cannot put questions on it.

RE-DIRECT EXAMINATION BY DR. PELCKMANN:

Q. Witness, I should like to refer you, as an example, to a copy of a poster in a document in English, entitled “German Crimes in Poland,” and comprising 184 pages. Will you please read it and will you tell me what connection it has with the Waffen SS, and if possible tell the High Tribunal the page on which it is found.

A. This poster is at the back of Page 184. It contains an announcement of the SS and Police Leader, it is therefore an instrument of the Higher SS

and Police Leader and, as I have stated repeatedly, has nothing whatever to do with the Waffen SS.

Q. Now I am having submitted to you another document, 4039-PS, a document about which you were not questioned by the prosecution. Please tell me what connection this document has with the Waffen SS?

A. This is an announcement of the District Chief of Warsaw, that is an official subordinate to the Governor General, an announcement which has no connection with the Waffen SS.

Q. Is there not something about the Waffen SS in this document?

A. It says here only that the German Wehrmacht -

Q. Please speak clearly, I was asking you whether the document contains anything at all about the Waffen SS?

A. I'm sorry to have to say "No." There is nothing about the Waffen SS in this document.

Q. I should further like to show you Document 4038-PS. This document was also not submitted to you by the prosecution. Please read it carefully, and then tell me what connection it has with the Waffen SS?

THE PRESIDENT: What number is that?

DR. PELCKMANN: It is 4038-PS, your Lordship.

THE WITNESS: This also is an announcement by the Chief of the Warsaw. District who was subordinate to the Governor-General and has no connection with the Waffen SS.

BY DR. PELCKMANN:

I should further like to submit Document D-954, the figure might be 957, it is not quite clear. This is an interrogation of 27th May, 1946, of the witness -

THE PRESIDENT (Interposing): Dr. Pelckmann, I think all these documents speak for themselves, and if they do not refer to the Waffen SS, the Tribunal will take note of that fact.

DR. PELCKMANN: Yes, Mr. President. But then I should like to know just why these documents were submitted. May I respectfully say that they are not relevant at all.

As you suggest, Mr. President, I shall not submit this document.

BY DR. PELCKMANN:

Q. Can you judge, witness, whether Document D-956, which you had in your hands, contains anything at all about the Waffen SS?

A. I looked at it only briefly, but I could not establish any connection.

Q. Thank you.

You were reminded, witness, of the speech of Himmler at Kharkov. You said that Himmler's idea that terror had been of use to the troops was wrong. Did you express your view about this to Himmler, and if so, in what way?

A. I made my view known to Himmler on the same day and, as is customary with military subordinates, I spoke to him alone.

Q. The SS Division "Prinz Eugen" was mentioned. How many divisions of the Waffen SS were there?

A. To my knowledge, there were at least thirty-five divisions. I believe there were even more, but they did not all exist at the same time. One of these divisions was the Division "Prinz Eugen," of which I have already said that it contained many Volksdeutsche in its ranks.

Q. Is it true that Serbs and Croats also served in this division?

A. I cannot give you the particulars on that point. We had several divisions in the Balkans which contained Croats, Montenegrins and Moslems.

Q. Do you know that the war in the Balkans was waged with particular intensity on both sides, and were atrocities by the other side ever reported to you? I am not asking this to ascertain whether the other side committed atrocities; my purpose is merely to establish the fact that, on the basis of

isolated atrocities, one cannot draw conclusions about the general conduct of the enemy.

A. I had no personal insight into the campaign in the Balkans. But from history I know that even before the First World War such excesses did take place in the Balkans.

Q. Do you know through reports from the Eastern Front - and again I want to qualify the question to make my intention quite clear -

THE PRESIDENT: Dr. Pelckmann, the witness has already told us that he knows nothing about the war in the Balkans, and therefore any questions you put to him will have no significance to us.

BY DR. PELCKMANN:

Q. Witness, do you understand that I am now asking you about the Eastern Front?

A. Yes, incidents of that type did take place. And reports of them were collected at headquarters and were forwarded, I believe, through the OKH, and I think by the Red Cross at Geneva. But I cannot give you particulars.

Q. Do you know that reports of that sort were collected?

A. Yes.

Q. And would you conclude therefrom that the Red Army did things like that systematically

A. You can hardly expect me to state whether these things were done systematically or not.

GENERAL RUDENKO: Mr. President, I would like to make the following brief statement. The defence has in the course of the proceedings tried more than once on the basis of inventions published in Fascist White Books, to draw attention to atrocities committed by opponents. This practice has already been categorically rejected by the Tribunal, and I therefore consider that the question now put by the defence counsel is also inadmissible.

THE PRESIDENT: Dr. Pelckmann, the Tribunal considers that you have no right to ask this witness for his opinion about these matters. You must confine yourself to asking him questions as to facts, and what he knows about facts. And you can make any comment about those facts that you like when you come to make your argument.

BY DR. PELCKMANN:

Q. Witness, in order to clarify the meaning of my previous question, I should like to ask you this: If you could now see the deeds which allegedly on the basis of these documents were committed by the SS, would you nevertheless say that these things were not representative of a system but were isolated incidents arising out of the severity of the battle, and caused partly by the lack of discipline on the part of certain foreign elements, incidents which for these reasons could happen everywhere?

THE PRESIDENT: You should not begin by asking the witness for his opinion. He has already given it to us, you know; he has already said, when he was being cross-examined about those incidents in which the Waffen SS took part, that they were individual instances. He has already said that.

BY DR. PELCKMANN:

Q. You have seen the document which says that hostages were shot and a Yugoslav was hanged. If you had received knowledge of a case like that among your troops, would you have taken any steps?

A. A case like that falls mainly under the jurisdiction of the divisional commander as the judicial authority. If I, as the commanding general, received reports like that, I would have taken steps, and I would have appointed a military court to deal with the case. And that indeed is what happened several times.

Q. You were asked about the case of Oradour in France. Do you know whether your units, that is, when they were under your command, participated in this crime?

A. I know this incident only from the Indictment, and I have no further knowledge of it. Apparently it was a criminal act of a single company leader. It took place at an earlier date, however, and if it had been brought to my knowledge, and if the division commander had been subordinate to me, I would have given him the order to appoint a military court to try the case.

Q. Your unit was used in Normandy; is that correct?

A. Yes, but Oradour is not in Normandy.

Q. It is in Southern France? Was your unit, while it was under your command, responsible for it?

A. No, neither the unit nor I.

Q. The prosecution has confronted you with quotations from Document US 117.

DR. PELCKMANN: I should be very grateful if this document could be put at my disposal so that I could show it to the witness. I think that without seeing the whole of the document, the witness cannot give a comprehensive reply.

(A document was handed to Dr. Pelckmann.)

BY DR. PELCKMANN:

Q. This is the order given by Himmler or by Hitler about the future tasks of the SS. I cannot show it to you, because it is in English. But I shall quote the following from it:

“The Greater German Reich, in its final form, will not within its boundaries contain only racial units which are from the beginning well disposed to the Reich, but in our Reich of the future, police troops will be in possession of the necessary authority only if - “

Please describe this order, on the basis of what you know of it, and tell us to whom and to what period of time these statements actually refer.

A. This order was only a verbal one. It was transmitted to the military commands apparently in order to assuage their misgivings about the expansion of the Waffen SS. It refers only to the future. It speaks of the

Greater German Reich as the Reich of the future. But naturally what in particular Hitler meant by this, is beyond my knowledge.

Q. This directive seems to indicate that the Waffen SS was to receive police tasks in the future. Was that the basic principle of the Waffen SS during the war?

A. No. I must deny that. Perhaps Hitler at the time thought of something like the military boundary which used to exist in Austria; the men worked there, and in emergencies formed the border defence unit.

Q. In your questioning by the Russian Prosecutor, among a list of alleged crimes committed by Waffen SS units, one particular unit was mentioned, and you were asked whether you knew its commander, General Steiner. You answered yes to that question?

A. Yes.

Q. I want to read an affidavit, one of the affidavits which I shall submit later on. This is SS Affidavit No. 1, which shows what strict views this Lieutenant-General Steiner had on the discipline of his troops. I quote from the middle of this affidavit, signed by Walter Kallweit:

“Our attention had been called to an alleged spy.

We tried to open the door of the neighbouring house, but we were unsuccessful. Thereupon we broke a window, entered the house, and investigated it. thoroughly, without, however, finding a Soviet spy. Since we were forced to realize that we had made a mistake, we left the house by the way in which we had entered it, and regretted very much having broken a window pane.

Two hours later, two Oberscharfuehrers of the Field Police Force of the divisional staff ‘Wiking’ arrested us. On our way to the divisional court, we asked the policemen for the reason of our arrest. They replied that the Ukrainian woman owner of the house which we had searched had complained to the divisional staff on account of the broken window pane, and that the commander of the division, General Steiner, had decreed an

immediate strict investigation of this case before the Divisional Court, and Ernst Gugl and I were interrogated singly by a judge holding the rank of Hauptsturmfuehrer.

The judge told me that an order of the day of General Steiner had instructed members of the SS Division 'Wiking' that it was their duty to behave decently towards the Ukrainian civilian population. My comrade Gugl and I had violated this order, since without permission or instruction, we had forced our way into a Ukrainian home by destroying a window pane."

I omit a few sentences.

"After the case had thus been cleared up, the judicial officer drew up a record of the interrogation and charged me with taking it to General Steiner's ordinance officer, Hauptsturmfuehrer von Schalburg, who commented on the report, as follows; these were his words:

'It is well that your behaviour was clean; otherwise you could have counted on severe punishment. General Steiner charged me with reporting to him personally the result of the investigation, and I am happy that I do not have to give him bad reports about his 'Wiking' men. Tell all your comrades, the 'Wiking' division is fighting chivalrously and cleanly.' "

Q. After hearing this example, witness, can you confirm firstly, that this was the basic attitude of General Steiner and of his troops, and secondly, that it was the basic attitude of the Waffen SS, both at the front and in the rear zones?

A. Steiner was one of the first commanders under me who helped to build up the fighting units. I know his strict views where others are concerned. Whether it was necessary to have judicial proceedings on account of a window pane may be doubtful. But as a basic principle, this view was held by the old leaders of the fighting units right from the beginning of the Waffen SS.

DR. PELCKMANN: I am sorry, Mr. President, there are so many documents, I am just searching for a last one which I wanted to make the subject of my re-examination.

Of the numerous affidavits submitted by the British prosecution, one was deposed by Dr. Stanislaw Piotrowski, on 29th July, 1946, here in Nuremberg. May I request that this witness be called for cross-examination before the Tribunal. It is obvious that the witness is present here and no reason therefore exists why we should be satisfied with an affidavit.

THE PRESIDENT: What is the number of the document?

DR. PELCKMANN: No. D-939, your Lordship.

THE PRESIDENT: Dr. Pelckmann, had you not better finish with the witness first and then make your motion afterwards, if you want to make a motion about cross-examination?

DR. PELCKMANN: I have no further questions to put to this witness, Mr. President.

THE PRESIDENT: The witness can retire.

DR. PELCKMANN: I am sorry, Mr. President, I made a mistake. It is not Dr. Piotrowski; it is Israel Eisenberg. That is the name of the witness.

THE PRESIDENT: D-939? Is it?

DR. PELCKMANN: Yes.

MR. FUSTER: Mr. President, might I ask a question to make one point clear?

THE PRESIDENT: Well, it is very inconvenient to do it at this late stage. Why did you not do it before?

MR. FUSTER: It is not very important, my Lord. I will withdraw it.

THE PRESIDENT: Very well. The Tribunal will adjourn now.

(A recess was taken.)

THE PRESIDENT: Mr. Elwyn Jones, the Tribunal understands that the witness, who is -

MR. ELWYN JONES: Israel Eisenberg.

THE PRESIDENT: Yes. Is he present in Nuremberg?

MR. ELWYN JONES: He is now in Stuttgart, my Lord, and is available to be called if the Tribunal thinks it is necessary.

THE PRESIDENT: Well, the Tribunal thinks, unless there is some particular objection, in view of the nature of the evidence, that possibly he ought to be called for cross-examination.

MR. ELWYN JONES: The prosecution has no objection to make at all, provided that we have additional time to get the witness here.

THE PRESIDENT: Well, then, will you have him brought here as soon as possible?

MR. ELWYN JONES: Yes, your Lordship.

THE PRESIDENT: Yes, Dr. Pelckmann.

DR. PELCKMANN: I shall now call the witness Reinecke.

(GUENTHER REINECKE, a witness, took the stand and testified as follows):

BY THE PRESIDENT:

Q. Will you state your full name, please?

A. Guenther Reinecke.

Q. Will you repeat this oath after me?

I swear by God - it is usual to hold your hand up when you are sworn - the Almighty and Omniscient, that I will speak the truth and will withhold and add nothing.

(The witness repeated the oath.)

THE PRESIDENT: The witness may sit down.

DIRECT EXAMINATION BY DR. PELCKMANN:

Q. Witness, what positions did you hold in the SS?

A. I was an SS Oberfuehrer, Chief of Department in the Amt "SS Courts," and Chief Judge of the Supreme SS and Police Court.

Q. Did you have legal training?

A. I had my legal training at the universities of Innsbruck and Munich. In 1931 I passed my first State examination and in 1934 I passed the second State examination which entitled me to occupy the position of a judge. In 1933 I became Doctor of Law at Munich.

Q. Did you or the other SS judges have any special training at all in special schools?

A. Neither I nor the other SS judges had special training at special schools. The SS judges came from positions in the legal profession and before the war were high-ranking legal personalities, public prosecutors or lawyers, or some of them were during the war transferred from courts of the Wehrmacht to courts of the SS.

Q. Did you, on the strength of your activities, gain insight into the construction and work of the units and groups which were headed by Himmler, and which one generally describes as the SS?

A. Yes. For nearly ten years I worked in the legal system of the SS. In that sphere I had to deal extensively with the development, the construction and the activity of the entire SS, the chief of which was Himmler. From that angle I gained very considerable insight and from that angle I can give my testimony here.

Q. According to the prosecution, the SS infiltrated into the entire life of the State. In this connection, the prosecution referred to the numerous offices and powerful positions which the so-called Reichsfuehrer SS Himmler occupied. It is true that the actions of the Reichsfuehrer SS meant, generally speaking, the actions of the SS?

A. No. Heinrich Himmler united in himself a number of powerful positions in the Party and the State, and finally the armed forces. He was Reichsfuehrer SS, Chief of the German Police, Reich Minister of the Interior -

Q. Please speak more slowly, witness, these are difficult names.

A. He was Reich Commissioner for the Strengthening of German Nationalism, Chief of the Reserves of the armed forces, Chief of the Office for Prisoners of War, and finally, supreme commander of two army groups. All of these positions had nothing to do with his post as Reichsfuehrer SS. His nomination to these positions of power took place on orders from above, and for reasons which can be traced back to his person, but not to the fact that he was Reichsfuehrer SS. Any connection between the SS and these positions of power which Himmler held does not exist.

In particular, certain powerful positions which Himmler held are emphasized in the Indictment as indicating that the SS was acting through his person. These were his positions as Reichsfuehrer SS, Chief of the German Police, Reich Commissioner for the Strengthening of German Nationalism, and Chief of the Office for Prisoners of War.

Q. Do the tasks involved in these four positions form part of the activities of the organization of the SS?

A. No, activities of the organization of the SS are those in which Himmler, in his capacity as Reichsfuehrer SS, is acting in connection with the SS: As Chief of the German Police, he had been given a task which lay entirely in the sphere of the State. His commission for the Strengthening of German Nationalism was entirely a matter of the Reich. And his position as Chief of the Office for Prisoners of War was entirely a task connected with the armed forces.

Q. The wording of former German decrees which transferred these tasks to Himmler always referred to him as Reichsfuehrer SS. What was the reason for that?

A. That is correct. Reichsfuehrer SS was the first position held by Himmler at the beginning of his career. It is typical of the usage of language in the National Socialist Reich not to refer to a person by name, but by the title of his position. That usage can be found in numerous decrees, but it refers only to the person and not the organization with which the person's

title may be connected. Many laws of economic political content have references, to give an example, to Hermann Goering as Reichsmarschall, but that did not mean that the German air force was active in an economic-political sphere.

Q. You have just mentioned organizations - plural - of the SS. As you know, your testimony before the Commission is already in the hands of the Tribunal, and in that testimony you said that one had to distinguish between five different independent spheres of activity which the prosecution wrongly combined under the heading "SS"; they are: General SS, Waffen SS, SD, police, and the concentration camps organization. Will you explain your statement that these were independent organizations? Will you start with the Allgemeine SS - the General SS?

A. The General SS was a formation of a political party and nothing else. It remained a formation of a political party until 1939, when it disappeared at the beginning of the war. At that time, 70 per cent of the members of the General SS changed over to military service, mostly in the Wehrmacht, a smaller percentage in the Waffen SS. But even the remainder were almost all drafted into the armed forces in the course of the following war years, so that the General SS practically disappeared during the war. At no time did the General SS receive tasks of the State, and it was never active in the execution of such tasks. Its members were and remained civilians who only wore uniforms when on duty - namely, twice weekly, quite often on Sundays - their duty consisted of standing guard during Party meetings of sport and of training.

Q. It is alleged by the prosecution that the General SS was the backbone of the entire SS, consisting of General SS, Waffen SS, police and concentration camps service. Is that correct?

A. No, that is not correct, and it is in contradiction to the historical development of the General SS. Nor was the General SS a reserve from which the other organizations which were mentioned drew their

replacements. The General SS had either very loose or no connections at all with the other organizations named.

Q. Furthermore, the prosecution stated that the General SS had not only infiltrated into the organizations of the State, but into the apparatus of the State, as such; is that correct?

A. No, that again is not correct. It is correct - that is true - that high-ranking persons in the General SS were promoted to positions in the State, such as the positions of the Presidents of Police. It is also correct that such persons came to occupy economic positions, directors of industries and so on. These are nevertheless appointments connected with the individuals nominated, but not with the organization to which they belonged. Might I draw attention to the fact that particularly the positions of Police Presidents were, during the first years after 1933, mostly not at all occupied by members of the SS, but by members of the SA. But on the contrary, in the course of time, a development in the opposite direction is to be noted, in so far as the General SS was infiltrated by persons and organizations completely alien to the character of the SS. Himmler appointed people in positions in the State and economy to be honorary members of the SS without their being connected with the SS in any way. In 1936, for instance, the so-called "Kyffhauser Union," a union of soldiers, was taken over into the SS by Himmler, but it had never before at any time had anything to do with the SS and it never became an organic entity of the General SS. The same applied in 1938. In that year, Himmler suddenly awarded honorary ranks both to the Regular Police and to the Security Police; both were given uniforms of the SS, though they were entirely separate organizations with tasks quite different from those of the General SS.

Q. Were these persons whom Himmler awarded ranks in the General SS the so-called honorary leaders?

A. Yes, those were the honorary leaders of the SS, to whom I referred just now.

Q. Was it typical of the honorary leaders that they never did duty in the SS?

A. Yes, you are quite right. The honorary leaders were awarded ranks and with them the right to wear the uniform merely because they already occupied some position of importance. But they themselves had never done a single day's duty in the General SS and even after their nomination they would have no contact at all with the members of the SS. That is what was generally understood by the title "honorary leader of the SS."

Q. Would it be correct to include - to mention a few names - the defendants Hess, Ribbentrop, Neurath, Sauckel among such honorary leaders who had no official duty in connection with the General SS?

A. All the persons whom you have mentioned were typical honorary leaders in the SS, as I have described them.

Q. Did they have the power to issue orders?

A. When they were appointed to be honorary leaders they only received the right to wear the uniform, as I have said. Their nomination did not give them power to issue orders.

Q. Now, I want to deal with the Waffen SS. Can you give any information on the Waffen SS?

A. The Waffen SS, from the beginning, was a self-contained independent organization, which it remained until the end of the war. The Waffen SS grew out of the so-called Special Disposal Groups. They were still loosely connected with the General SS, because from the General SS recruits, if they volunteered, were transferred to the Special Disposal Groups. At the same time, the SS Special Disposal Groups were joined by German citizens through other organizations of the Party and other German citizens who were not connected with the Party at all. During the later development of the Waffen SS, these connections, which had always been loose, gradually disappeared entirely. The Waffen SS became an independent organization, which is also shown by the fact that, for example,

members of the General SS and members of the Party who were serving in the Waffen SS found that their membership of the General SS or of the Party lapsed for that period. It is typical of the independence of the Waffen SS that even the highest leader in the General SS did not by any means join the Waffen SS with the same rank which he held in the General SS, but that in the Waffen SS he was treated exactly as any other citizen; in other words, he had to begin as a recruit. The difference and the proof for my assertion that the Waffen SS was an independent organization are also evident from the fact that in the case of civil proceedings against members of the General SS, the NSDAP would appear on their behalf, whereas in civil proceedings against members of the Waffen SS organization, the German Reich would prosecute.

Q. Was there any connection between the General SS and the Waffen SS on one side and the SD on the other?

A. No, no connection whatever existed. The Security Service developed into an intelligence organization which became an independent organization not later than 1934; as such, it had nothing whatsoever to do with the General SS and the Waffen SS, except that Himmler was their joint chief.

Q. What was the relationship between the Waffen SS or the General SS and the police?

A. I believe that one must certainly exclude the Waffen SS. The Waffen SS had a definite military character and its activities were military; that is to say it was at the front during the entire war. Any connection with the police could not possibly therefore have been established. But the General SS, too, had no direct organisational contact with the police. The police was an organization of the State, and had State executive powers. The appointments, for example, of high-ranking officers of the General SS to the posts of Higher SS and Police Leader, again, do not point to any organic connection between the two organizations. The Higher SS and Police Leader had in that particular position, no power to issue orders to the

General SS unless he was at the same time the head of an Oberabschnitt of the General SS. On the other hand, he had no real power to issue orders to the police, either. Members of the police have in fact, to stress the outward difference also, never at any time worn SS uniform. Something similar applies to the relationship between the General SS and the Waffen SS on one side and the Security Police on the other. As I have already stated, in 1938 the Security Police quite suddenly received ranks in the SS and the right to wear the SS uniform. That, however, does not indicate that there was any organisational connection with the General SS. The Security Police received State executive powers, the Chief of the General SS, on the other hand, never had such executive powers. He could not order arrests or confiscations, nor could he carry out any other executive function. It was noticeable that at the beginning of the war and during the war, the Security Police, wearing SS uniform, moved outwardly, more and more into the foreground. This was the time when the members -

THE PRESIDENT: Dr. Pelckmann, is it possible that this evidence could have been given at greater length before the Commission? Did you hear what I said?

DR. PELCKMANN: Yes, Mr. President.

THE PRESIDENT: Do you not think you could shorten it?

DR. PELCKMANN: Yes, Mr. President. The witness has already come to the end of that particular part of his testimony.

THE PRESIDENT: You have been asked over and over again to shorten the evidence and you seem to me to be making no effort to do it.

DR. PELCKMANN: I thought it necessary to clear up the question of the Higher SS and Police Leaders with particular care, because it is extremely intricate even for us Germans.

BY DR. PELCKMANN:

Q. What was the connection in the occupied territories between the Higher SS and Police Leaders and the General SS?

A. There was absolutely no connection at all, because in the occupied territories the General SS did not even exist. The General SS was an institution for German citizens and for that reason it did not exist in the occupied territories. The Higher SS and the Police Leaders in the occupied territories fulfilled police functions only; they had no connections or ties with the General SS and could not have had such connections for the reasons which I have described.

Q. Why did the General SS not exist in the occupied territories?

A. As I have just said, the General SS was a formation of a political party, in which only German citizens were accepted. For that reason the General SS could not exist in the occupied territories.

Q. Is it correct, then, to say that acts or even crimes of the Higher SS and Police Leaders in the occupied territories could not incriminate the General SS at all?

A. That is absolutely correct.

Q. I should now like to take up the discussion of a document. I gave you the document during the recess, witness, and perhaps you would be good enough to state the number of it to the High Tribunal. It is the document which was put to the witness von Eberstein yesterday.

A. It is Document 4024-PS, and is the correspondence between the Higher SS and Police Leader in the Operational Zone Adriatic Coast, Globocnik, and Heinrich Himmler and Oswald Pohl.

Q. Is it possible for you to ascertain from the document in which capacity the author of these letters, Globocnik, was acting? Was he acting in his capacity as Higher SS and Police Leader in Trieste or was he acting as Higher SS and Police Leader in Lublin, as far as you can remember?

A. The document shows quite clearly that Globocnik, in this case, was acting as SS and Police Leader in Lublin and not as Higher SS and Police Leader, Adriatic Coast. This is actually contained in the document itself. I myself know from my own activity that at the end of 1943 or at the

beginning of 1944, Globocnik was relieved of his post as SS and Police Leader in Lublin, and was given the post of Higher SS and Police Leader, Adriatic Coast. The date of the document, therefore, appears to be wrong. It is 5th January, 1943, but that must be an error; it should read 1944, as the letterhead shows.

Q. Do the activities described by Globocnik in this document implicate the General SS; that is to say, did Globocnik carry out the activities which he is describing in the capacity of leader of the General SS?

A. It is obvious from the document that Globocnik was acting in his capacity as SS and Police Leader, and we are here concerned with a secret special task, the so-called "Action Reinhard." He is acting solely as police executive. Any connection between this activity and the organization of the General SS, or even any of its members, does not exist in any way.

Q. Are you drawing your conclusion, that this was a special order directly from Himmler, partly from the fact that the report is addressed to Himmler directly, and does not go first, as it should have done, to the Higher SS and Police Leader at Krakow, Krueger?

A. That is quite true, but it is also apparent from other passages in this correspondence. The expression "special task" is clearly used in the correspondence; furthermore, the correspondence is headed "Secret Reich Matter," and it also mentions that only four copies of this "Secret Reich Matter" are in existence and that the document sent by Globocnik to Himmler is the original.

Q. You are still reading from Document 4024?

A. Yes, that is the document I am reading.

Q. Would you look to the top of Page 3? I think that indicates quite clearly who was dealing with those matters, and on whose authority Globocnik was acting.

A. Page 3 of this document shows that the "Action Reinhard" was divided into four parts: (A) resettlement, (B) use of labour, (C) use of

materials, (D) seizure of hidden values and real estate. It also shows that Globocnik was communicating with Oswald Pohl personally, as well as with Himmler, on this matter. Pohl was Chief of the SS Economy and Administration Central Department, which -

THE PRESIDENT: What is the point of all this evidence? We have the documents before us.

DR. PELCKMANN: This document was shown yesterday to the Higher SS and Police Leader in the Reich, von Eberstein, in order to prove through Globocnik's action - and Globocnik's letterhead also reads "Higher SS and Police Leader," though he was active abroad - that the Higher SS and Police Leaders committed crimes, and further to prove that the General SS was also implicated in these crimes, because, according to the view of the prosecution, which I am trying to prove wrong, the Higher SS and Police Leaders were simultaneously acting on behalf of the General SS. This witness, Reinicke, since he was a high judge and thus able to have knowledge of the entire organization of the SS, is in a position to state whether this view, this assertion, of the prosecution is correct -

THE PRESIDENT: Surely he can say so then without spending all this time on this document. If he wanted to say whether Globocnik was acting on behalf of the SS, or was not, why does he not say so and get done with it?

Q. After seeing the document, and judging it on the basis of your knowledge of the organizations of the SS, would you say that Globocnik was acting on behalf of the Waffen SS or on its order, or on behalf of the General SS or on its order?

A. The contents of the document show clearly that Globocnik was neither acting on behalf of the General SS nor on its order, nor on behalf of the Waffen SS. The document shows clearly that it was a "special task" given to Globocnik by Himmler personally, a task which had nothing to do with either of these two organizations.

Q. Of the various groups which you mentioned earlier, groups which are regarded by the prosecution as a single organization, we have not yet dealt with the system of the concentration camps. How did the concentration camp system fit into the SS and was there an organic tie between the concentration camp system and the SS?

A. An organic tie did not exist. The concentration camp system had a police character corresponding to its purpose. The administration of the concentration camp system was therefore a task of the Reich, and Himmler was entrusted with this task in 1933 or 1934. At that time, he created a special organization for guarding the concentration camps, and this organization was known as "Totenkopf organization," or "Totenkopf Units." That organization, too, did not grow out of the General SS and never had any organic connection with it later. The first guards of the concentration camps were only to a very limited extent former members of the General SS. They also included members of the SA and of other Party organizations, members of the Party, and people who belonged to no party, but who, in view of the conditions of that time, were unemployed and required work and food, and a new sphere of activity. From these initial stages, the "Totenkopf Units" developed independently, and their members were given training similar to that of the police. In 1939, they joined the Waffen SS organization, which was at that time being formed. The task of guarding concentration camps was then turned over mainly to such persons who could not serve at the front. A small number of members of the General SS, who were unable to serve at the front, members of the SA, too, members of the Kyffhauser Union and thousands of members of the armed forces were then assigned to guard duty at the concentration camps.

Q. You said that, in 1939, the Totenkopf Units joined the Waffen SS. I shall have to ask you about this specially, because during the examination of the last witness, Totenkopf Units and Totenkopf Divisions had obviously

been confused. What is the exact designation of these two units? What is meant by them?

A. The Totenkopf Units were the guard units in the concentration camps until the beginning of the war. At that time they were transferred to various parts of the Waffen SS. The Totenkopf Division had nothing whatever to do with the Totenkopf Units. The Totenkopf Division was a division of the Waffen SS, which was formed in the first years of the war and was used at the front as a complete division.

Q. You just said that the Totenkopf Units were in 1939 transferred to the Waffen SS. Did they, after they were transferred to the Waffen SS, still have something to do with the guarding of concentration camps?

A. After their transfer to the Waffen SS, they had no longer anything to do with the guarding of concentration camps; they were assigned to the various divisions of the Waffen SS soldiers.

Q. It has been alleged by the prosecution that the unification of the SS as an organization was brought about by establishing a common command, and in that connection the prosecution referred to the twelve head offices of the Reichsfuehrer SS and the Chief of the German Police, depicted on the organisational chart which the prosecution submitted. Were these twelve head offices leading organs of the SS?

A. No, they were not leading organs of the SS.

Q. In order to shorten the proceedings, I shall ask you now about the head offices and their connection with the SS. Were the head office, Regular Police, and the RSHA command posts of the General SS or the Waffen SS?

A. No. The head office, Regular Police, was the headquarters of the German Police and the head office, Security Police, was the headquarters of the Security Police. Both were departments of interior administration, and were organic parts of the Ministry of the Interior. At no time did they have the authority to issue orders to the General SS or to the Waffen SS.

Q. Were the State head office of the Reich Commissioner for the Strengthening of German Nationalism and the so-called Central Department for Germans Abroad, were they command posts of the General SS or Waffen SS?

A. No. Both of these head offices were authorities of the Reich and discharged only tasks of the Reich. Their members were civil servants, and certainly not soldiers of the Waffen SS or officials of any part of the General SS. Neither of these head offices had the authority to issue orders to the General SS or the Waffen SS.

Q. In brief, were the remaining eight head offices command posts of the General SS or Waffen SS?

A. Of the remaining eight offices, one must exclude two, namely, the "Unit head office Heissmeier" and the head office "Personal Staff." The "Unit head office Heissmeier" had nothing at all to do with the SS, but it was an office headed by Heissmeier and belonging to the Reich Ministry of Education. The head office "Personal Staff" was also not a command post, but it was Himmler's Adjutant's office, the collecting point of the various sections which were subordinate to Himmler personally, or which were carrying out his personal orders, but which had nothing to do with the organizations of the General SS and the Waffen SS as such. These sections included, for example, the so-called "Lebensborn" society and the so-called "Ahnenerbe." The Reich medical officer, Grawitz, was also connected with this head office and carried out biological experiments, acting on Himmler's personal orders and without the co-operation of the organizations.

Q. Further details are, I think, unnecessary. I have one last question with regard to the organizations. Did the remaining six head offices represent a unified supreme command of the SS?

A. No, these six head offices were not a unified SS command either. They were six departments working side by side with equal rights, and

dealing with particular subjects; they were in a position to give orders without having to be unified in the hands of a single person.

Q. Did not Himmler and his immediate staff represent a unified supreme command, which, as the central authority issuing orders, would guarantee unified control and direction of the various parts of the head offices?

A. No, Himmler did not have such a staff. He himself interfered in the general direction of the whole SS only very rarely, and never in favour of unifying its command.

Q. Are not your statements here in contradiction to the writings and speeches of Himmler himself, for instance, in contradiction to his speech at Posen, in which he emphasized the uniformity of the organization under his command?

A. No, these speeches do not contradict the testimony I have given. Himmler was undoubtedly speaking of unity in this speech, and he was certainly planning for such unity, but that unity was in no way a reality. Himmler's speeches are therefore to be regarded as containing only plans for the future. Instead of working more closely together, as Himmler had intended, these organizations, on account of the differences in the nature of their tasks, continually moved away from each other. Of that Himmler was aware, as his speeches clearly show, and it was for that very reason that he took advantage of the occasion to explain to his chiefs and leaders his own views on the uniformity of the organization. Real organisational unity did not, in fact, exist at any time.

Q. Did this lack of unity also affect the legal system of the SS?

A. This was quite evident from the arrangements regarding jurisdiction. The legal system of the SS did not apply at all to the General SS, but it was created mainly for the Waffen SS, and it also applied to the police, because Himmler had declared the police to be on active service for the duration of the war. At the beginning of the war there were only a few police units

fighting at the front as military units, but as the war, particularly the air war, continued, the entire German police was declared to be one special task force, and therefore came under the jurisdiction of the SS. The same applied to the Security Police. In this case, Himmler also issued a decree, in 1940, stating that the entire Security Police was being considered as a special task force for the duration of the war. Consequently, the Security Police also came under the jurisdiction of the SS legal system. But that the RSHA and all its departments remained, organisationally, completely independent and without any connection at all to the General SS or Waffen SS, is apparent from the fact that Himmler at the same time took the whole conduct of pre-trial investigations, if members of the RSHA were involved, out of the hands of the SS legal system and transferred it to a special pre-trial investigation department, which was part of the RSHA.

The outcome of this was that though legal proceedings against members of the RSHA could still be carried out and sentences could be passed, the SS legal system no longer had any insight into the matters of the RSHA, and any control of them was impossible.

The members of the guard units of concentration camps also came under the jurisdiction of the SS legal system, because at the beginning of the war they had nominally become members of the Waffen SS, that is, for reasons of economy and supply, and also for reasons of uniform army supervision, they were nominally attached to the Waffen SS.

Q. Now you say, witness, that the General SS did not at all come under the SS and police legal system. Then under whose jurisdiction were the members of the General SS?

A. The legal system of the SS came into force in October, 1939, at a time when the General SS was already in the process of disappearing. Before that time the General SS came under the jurisdiction of the German Courts. Members of the General SS were, therefore, prosecuted and sentenced by ordinary German criminal courts, and in so far as any

members of the General SS remained in Germany, they continued to come under the jurisdiction of the German courts during the war, when the legal system of the SS was already in existence.

Q. Then, to make it quite clear, witness, the General SS was in peace and in war under the jurisdiction of the ordinary German civil courts. Is that correct?

A. Yes.

Q. The prosecution has alleged that from the very beginning the SS was designed for illegal purposes, that from the very beginning it acted illegally and that no differences can be made between the various periods with which we are concerned. Does the development of the legal system of the SS confirm this allegation in any way?

A. If an organization has criminal aims and pursues criminal activities, then logically the legal system of such an organization must, through its construction, its laws and its activities, indicate that it is endeavouring to conceal such criminal aims and criminal activities. Precisely the reverse is the case. The SS, from the beginning of its formation, fought against crime on principle and at all costs, and it had a perfectly orderly administration of justice.

Q. How was the orderly administration of justice in the SS guaranteed?

A. By the so-called disciplinary law.

Q. Do I understand correctly that members of the General SS came in the first place under the jurisdiction of the ordinary German civil courts?

A. Yes, I said so before.

Q. Then, in spite of that, there was a disciplinary procedure, that is to say, a certain type of legal system applicable to the members of the General SS. Is that correct?

A. That is what I was just going to explain. This internal disciplinary law consisted in the right of exclusion, which every civil union possesses. The law provided, on the principle of selection, that people who had

previously been convicted could not enter the SS at all, and that people who committed punishable acts while members of the SS had to leave the SS. This principle was the best method of selection, because it automatically prevented the perpetration of crime.

The training in the law through this disciplinary system and the application of the disciplinary system itself guaranteed, in addition to the administration of German law by the ordinary German courts, that the SS would remain free of dubious elements. An agreement had been reached between the Reich Ministry of Justice and the Reich Leadership of the SS that, on the one hand, the ordinary German courts would notify the SS if they had uncovered punishable acts by one of its members, and on the other hand, the SS would notify the Reich Ministry of Justice if the SS had found one of its members guilty of a crime.

This agreement was strictly followed. A special liaison officer to the Ministry of Justice was appointed, and the result was that in the first place, criminal elements were, in fact, eliminated from the SS and that secondly, crimes punishable under German penal legislation were, in fact, tried by the ordinary German legal authorities.

Q. Witness, would you please make your sentences a little shorter? It would help the interpreter.

Why, at the beginning of the war, was a special legal system introduced for the Waffen SS? Was this done, perhaps -

THE PRESIDENT: The Tribunal thinks you are going into this far too much in detail, Dr. Pelckmann.

DR. PELCKMANN: Your Lordship, this subject has not yet been dealt with before the Commission, and I believe that, in accordance with the decision of the Tribunal, I can introduce new subjects which are important. But I shall attempt, Mr. President, to be brief.

BY DR. PELCKMANN:

Q. Did you understand my last question, witness?

A. Yes.

Q. Why was a special legal system introduced for the Waffen SS at the beginning of this war? Was its purpose to cover up crimes?

A. This special legal system was created because SS units were used as troop units and therefore, for such units, courts martial had to exist. This legal system was created by law, and not by some order from Himmler, and it introduced for the Waffen SS the same laws and the same legal organization which already existed for the Wehrmacht. It cannot by any means be said, therefore, that this legal system was introduced to cover up criminal acts. In fact, the exact reverse is true.

Q. But then; the prosecution alleges that the SS was trained for terror, atrocities and crimes. This is contradicted, is it not, by your allegation that crime was fought against in the SS at all costs.

A. Training in the SS consistently aimed at decency, justice and morals. Institutions existed which guaranteed that this training was carried out in its entirety. The law, including International Law, was taught not only in the Junker Schools of the SS, but legal proceedings were openly held before entire units. The head office "SS Courts," as the central department of the legal system, issued its own literature to ensure that these principles of decency and justice became firmly established among all members of the SS. Training in the law, as it was handled in the SS, was the exact opposite of the prosecution's assertion about it.

Q. The prosecution might reply that this strict training in the law, this fight against crime before and during the war merely proves how necessary it was, since the SS was full of criminals. Would the prosecution be right in saying so?

A. No, it would not be right. Special principles of selection were applied in the SS. The so-called basic principles of the SS laid it down as a duty of its members to conduct themselves in a particularly ethical way. Thus, a man in the SS who infringed a law was more guilty and was,

therefore, more severely penalised. And that explains the more severe punishment of SS members in comparison with members of the armed forces or German civilians.

Q. Himmler was the appointing and final authority in legal matters. What were his powers? Could he, for instance, direct a court to pass a certain judgement?

A. No, Himmler could not do that. On the whole he did not interfere with the course of the law. As the appointing authority he had of course the right, bestowed on him by Hitler, to quash any sentence, but he made use of this right only in very rare cases. The judge himself was independent, bound only by the law. His independence was guaranteed by law. The findings and sentences of the SS Courts were reached by a majority vote. In that respect interference of the appointing authority, Himmler, was not possible. He had, however, the right to order a retrial of the case or he could quash the sentence. He could, therefore, have a case retried several times, if he did not agree with the verdict. But here again the decisions of courts of the SS, reached on the basis of the existing laws, were always finally upheld.

Sentences passed by the SS Courts were on occasions cancelled by the appointing authority up to three or four times, because he considered the penalty too high or too low. The judges always reached the same decision on the basis of the law and eventually their decision was upheld.

Q. Your description of the training in the law and the correct administration of the legal system contradicts the assertion of the prosecution that the SS had been designed for matters for which neither the Party nor the State wished to assume responsibility.

A. What I have said here about the training of the SS in the law corresponds both to the historical development of the SS and to the facts. The apparently unbridgeable gap between the assertion of the prosecution

and my testimony is explained by the fact that the prosecution simply considers the SS as an organisational unit, which it has never been.

Wherever Himmler acted, the SS acted, according to the prosecution. Wherever the State executive acted, the SS acted, again according to the prosecution. But these organisational connections did not exist, and for that reason the allegations of the prosecution in that respect are not correct.

Q. Since numerous documents dealing with crimes committed allegedly by members of the Waffen SS were submitted to the last witness, it is necessary for me to ask you this: Did the Waffen SS commit crimes against the civilian population in the occupied territories and, at the front, and were these crimes committed systematically and in violation of international agreements, in violation of the penal law existing in the countries concerned, and in violation of the general principles of penal law of all civilised nations?

A. No, there can be no question of that. It is clear that on the part of the Waffen SS, violations of International Law took place in individual cases, just as they took place on the other side also. But all these are individual occurrences and not systematic. All these individual acts were prosecuted under the legal system of the SS and the police in the most severe manner. In the head office "SS Courts" there existed a department which guaranteed and carried out an overall supervision of the entire legal system. Having knowledge of this department I can testify in this courtroom that in such individual cases the courts in every theatre of war and during the entire duration of the war passed sentences for murder, looting, manslaughter, assault and rape, ill-treatment and also for killing prisoners of war, and in trying such cases, the race or nationality of the person concerned had no influence whatever. All these were individual and not systematic acts, and this is confirmed by the criminality statistics of the head office "SS Courts." The absolutely strict administration of the law kept criminality below the

normal level: it varied between 0.8 per cent. at the beginning and 3 per cent. at the end of the war.

Q. But by order of Hitler, dated 13th May, 1941, a document which was submitted here, the prosecution of such crimes was prohibited, was it not? Is that not a contradiction of your testimony regarding the prosecution of such cases?

A. No, it is not a contradiction, because that order of Hitler, though declaring the prosecution of such cases not compulsory, nevertheless left the decision of whether or not the case should be tried to the discretion of the appointing authority. During the entire period of my long practice I -

THE PRESIDENT: What is the reference to the order of Hitler?

DR. PELCKMANN: I much regret, Mr. President, that at this moment I cannot state the number. It is the order which was issued before the beginning of the Russian campaign and which says that only for the maintenance of discipline should excesses of the troops be punished. If I may, I shall state the number tomorrow.

I have only one more question, Mr. President, before closing this chapter.

COLONEL SMIRNOV: Mr. President, I think I can give you the information.

This directive is signed by Keitel and its title is: "The Struggle against the Partisans." It is Exhibit USSR 16.

THE PRESIDENT: You say you have only one more question?

DR. PELCKMANN: I have only one more question before closing this particular chapter; I will start a new one, if I may, tomorrow morning.

Q. It was alleged by the prosecution, witness, that the so-called courts martial of the SS and the police murdered the civilian population in the occupied territories under the cloak of administering the law. What were the courts martial of the SS and the police?

A. Such courts martial of the SS and police never existed at any time. There were, as I know from my own experience, courts martial of the Security Police in Poland. I recently learned that such courts martial existed also in the other occupied territories. These were courts martial of the Security Police, that is to say, entirely an affair of the police, which had nothing whatever to do with the legal system of the SS and the police.

Thank you.

THE PRESIDENT: Well, now, will you tell us what are the subjects upon which you are going to question this witness tomorrow?

DR. PELCKMANN: The system of concentration camps and the SS legal system.

THE PRESIDENT: You have been dealing with the SS legal system today. That is the subject you have just concluded. You have told us that the judges of the SS were independent. That is part of the legal system, is it not?

DR. PELCKMANN: Mr. President, I wanted to deal with special questions connected with the legal system in concentration camps.

THE PRESIDENT: What questions are you going to deal with?

DR. PELCKMANN: I would like, tomorrow, to deal with the concentration camp system, with the SS and police legal system and with the connection between the two.

THE PRESIDENT: I have got down that you are going to deal with the concentration camps and the legal system in concentration camps. What else?

DR. PELCKMANN: Nothing else, your Lordship.

THE PRESIDENT: Well, the Tribunal wishes me to tell you that they think you have been much too long and they will expect you to be much shorter tomorrow morning.

(The Tribunal adjourned until 7th August, 1946, at 1000 hours.)

WEDNESDAY, 7TH AUGUST, 1946

THE PRESIDENT: Yes, Dr. Pelckmann.

GUENTHER REINECKE RESUMED

DIRECT EXAMINATION BY DR. PELCKMANN (counsel for SS):

Q. Witness, before passing on to a new subject, I have one more question to clarify with reference to yesterday's examination.

In connection with a document there was some discussion of a cavalry brigade of the SS. I was afraid, and I gathered from certain statements, that this brigade might be confused with the cavalry storm troops of the General SS. I draw the attention of the High Tribunal to the testimony of the witness von Boikowski-Bidau before the Commission, and I now ask you, witness, to tell us in which way the cavalry storm troops of the General SS differed from the formation which I have just mentioned.

A. Cavalry storm troops of the General SS were special units of the General SS, like, for instance, the motor storm troops of the General SS. They had nothing whatever to do with the later cavalry units of the Waffen SS, nor were these later units built up from the cavalry storm troops.

Q. A horrifying moving picture of the atrocities in concentration camps was shown in this courtroom, and the prosecution has alleged that such conditions were the outcome of a consistent policy of the SS.

Can you, as a high-ranking judge, comment on this allegation? Did the courts of the SS gain knowledge of these occurrences, and if so, did they remain silent?

A. Of the consequent policy of the SS with reference to the conditions shown in this film, there can be no question. Frightful atrocities were committed in concentration camps, but the film shows the effect of the total collapse of the German Reich on these camps; it does not, therefore, represent normal conditions therein. The normal conditions were quite

different. I am in a position to pass judgement on these matters, because the legal system of the SS and the police used all the means at its disposal -

THE PRESIDENT: Is the witness speaking from personal observation of the concentration camps?

DR. PELCKMANN: Yes, Mr. President, he is just about to explain that.

THE WITNESS: I am entitled to pass judgement on these matters, because the legal system of the SS and the police used every means at its disposal and it sometimes even overstepped its own authority to take legal measures against these atrocities. We had investigating commissions in the concentration camps which reported to me repeatedly on conditions there.

If the legal system of the SS and the police was in a position to take steps against such conditions, then it was only because these conditions were not the result of a consistent policy of the SS, but were caused by criminal acts of individual persons, small groups and a few highly placed superiors, but were not committed by the SS as an organization. The legal system took its steps in order to fight against these crimes and to eliminate such criminal elements from the SS.

DR. PELCKMANN: I want to quote from a document already submitted by the prosecution, Document E 168. It is a letter from the SS Economy and Administration Main Office, Department Concentration Camps, reference D, etc., and contains instructions to the senior medical officers in concentration camps.

THE PRESIDENT: What is this document; what is the document?

DR. PELCKMANN: It is a document already submitted by the prosecution, E 168, and it is also in the official Document Book, Concentration Camp.

THE PRESIDENT: I cannot hear what the reference is. Is it "D," dawn, or "G"?

(The interpreter: "E," easy - 168.)

THE PRESIDENT: What is the exhibit number?

DR. PELCKMANN: I must regret that unfortunately I cannot state the exhibit number at the present time.

In that document it says among other things:

“With such a high death figure the number of detainees can never be brought to the level demanded by the Reichsfuehrer SS. The senior camp medical officers must use every means at their disposal to reduce the death rate in the various camps considerably. The best medical officer in a concentration camp is not the man who believes that his undue harshness must stand out, but rather the one who, by means of supervision and exchange at the various places of work, maintains the working capacity at its highest level.

Medical officers in the camps should supervise the feeding of the prisoners more often than before, and with the approval of the administration, they should submit to the camp commandant suggestions for improvements. Naturally these must not merely appear on paper, but camp medical officers should make regular checks. Apart from that, the medical officers should see to it that the working conditions at the various places of work are improved as much as possible. It is necessary for that reason that medical officers should inspect thoroughly the places of work and investigate working conditions.

The Reichsfuehrer SS has ordered that the death rate must be reduced at all costs.”

THE PRESIDENT: Dr. Pelckmann, did you not understand that we do not wish to have - Can't you hear?

DR. PELCKMANN: Yes.

THE PRESIDENT: The Tribunal has indicated to the prosecution that they do not want to hear these documents read which have already been put in evidence, and there you are reading every word of this document.

DR. PELCKMANN: I understand, Mr. President.

THE PRESIDENT: Surely you can summarize it; if you have a question to put upon it, that must be possible.

BY DR. PELCKMANN:

Q. Do you know, witness, whether such instructions were actually carried out in the concentration camps?

A. The investigating commissions of the head office “SS Courts” repeatedly confirmed to me in personal reports that such instructions were in fact put into practice in the concentration camps. They reported to me that accommodation, hygienic conditions, medical supervision, feeding and also the treatment and the physical appearance of the detainees were for the most part good. They also confirmed that the strict prohibition of ill-treatment of detainees was repeatedly made known in the camps, and was, in fact, observed.

The picture of the concentration camps under normal conditions is, therefore, quite a different one. To the outsider, the cleanliness and the smooth functioning of the working programme were noticeable. If crimes were committed in concentration camps, then they occurred in a way in which they remained hidden from the outside world, and even from the inmates of the camps, unless they were affected by them.



The watchtower at the Buchenwald memorial site, 1983.

THE PRESIDENT: Are you saying that you personally received these reports or that you had these facts before you?

WITNESS: I received reports from these investigating commissions which were submitted to me personally, and from these reports I was able to gather the facts which I have just related.

THE PRESIDENT: Well, then, you knew in December, 1942, that 70,000 arrivals in concentration camps, out of 136,000, had died, did you?

WITNESS: No, that I did not know. I shall have to supplement my testimony by stating now an answer which I was to have given in connection with a later question, namely, that the head office "SS Courts" instituted these commissions investigating crimes committed in concentration camps only since the second half of 1943.

THE PRESIDENT: I thought you said in answer to my question, "These facts were known to me."

Go on, Dr. Pelckmann.

DR. PELCKMANN: In this connection, I draw the attention of the Tribunal to my Affidavit SS No. 65 to 67 which was translated in its entirety at my request. It was deposed by a judge who conducted the investigations and it contains numerous additional details.

BY DR. PELCKMANN:

Q. To what extent was the legal system of the SS responsible for the administration of the law in concentration camps?

A. The jurisdiction of the legal system of the SS did not include detainees in concentration camps. Responsibility for them was entirely that of the ordinary German legal system. To a certain extent the jurisdiction of the SS legal system included the political sections in concentration camps, but this was subject to the condition that the investigating department of the RSHA had preference in this matter. Guards and members of the commandant's staff in concentration camps came under the jurisdiction of the legal system to the full extent laid down by military courts.

Q. You have already mentioned, witness, that the prosecution by your legal system of crimes committed in concentration camps began in 1943. When in 1943?

A. During the second half of 1943 the legal system found, as a result of the case of corruption against the former camp commandant Koch, traces of crimes committed in other camps also. It was from that moment that the legal system became active.

Q. How was it that the legal system became active so late?

A. So-called legal officers were attached to concentration camps for purposes of supervision. These legal officers, who were the instruments of the appointing authority concerned, had the task of writing so-called reports of evidence, of crimes of any sort occurred, and of submitting such reports to the courts so that they might take over the prosecution of the crimes.

Q. One intermediate question -

THE PRESIDENT: Dr. Pelckmann, I do not think he gave an answer to your question at all: Your question was: How was it that it was so late as the second half of 1943 that these investigating commissions began to become active? He did not answer that question at all.

DR. PELCKMANN: Your Lordship, the witness has not yet finished. I was just going to put an intermediate question, and in his later reply the matter will become quite clear.

BY DR. PELCKMANN:

I want to put an intermediate question, witness. Did these legal officers come under your jurisdiction, or that of the head office "SS Courts," or that of the SS legal system, or under whose jurisdiction did they come? Can you give names?

A. The legal officers did not come under the organization of the legal system, but they were officials of the appointing authority, who authorized the investigations.

Q. Who was that in the case of the concentration camps?

A. In the case of concentration camps, it was Oswald Pohl, who was mentioned yesterday.

Q. Now, will you please continue with the answer to the question, why did the legal system learn of these atrocities at so late a stage?

A. The reason was that earlier the legal system had not had any suspicions, which, in turn, was due to the fact that these legal officers, during the years until 1943, were continuously handing in such reports of evidence to the Courts. These reports of evidence were worked out in exact detail. In cases of unnatural death of detainees, they contained photographs of the place of the crime, medical reports, statements from witnesses, both detainees and guards, and these reports were executed in such exact detail that the suspicion that crimes could still be committed behind the backs of legal officers could not arise.

These reports of evidence which were submitted led in every case to the trial and sentencing of the criminal.

Q. Might not the reports of evidence have been forged, and might not the actual facts have been covered up in that way?

A. That was partly so. I just said that during the second half of 1943 we began investigations in the camp at Buchenwald. Already in 1941 we had carried out such an investigation in Buchenwald, which, however, had no result.

During the later investigation, in 1943, it was in fact discovered that in 1941 the commandant, Koch, had used forged reports, coached witnesses and forged medical reports which had deceived the investigating judges. We then conducted investigations in other camps, where we found that these reports of evidence had been in order.

Q. Now, will you please describe briefly what further steps the SS legal system took with regard to these crimes in concentration camps.

A. The traces and clues in the camp at Buchenwald were manifold, and they led to many camps. The matter became more complex from month to

month. It was evident that the investigating organs of the legal system had been utterly unsuitable for the task of conducting a purely criminal investigation of this sort, because the legal system, in view of its character as a military legal system, lacked a fundamental basis, namely, an experienced authority capable of carrying out criminal prosecutions.

For that reason, judges were quickly given short training courses in criminal proceedings, and at the same time, in collaboration with the RSHA, experts from the Reich Criminal Police Department were made available for the investigation of these crimes.

Such commissions were established in many camps and they worked continuously until the collapse. The head office "SS Courts" created a special court which had almost exclusively the task of trying these cases involving crimes committed in concentration camps. In the head office "SS Courts," which was the central directing department of the legal system, a special chief department was created which carried out the overall direction of the investigations in concentration camps, and which was to take over the task ordinarily discharged by the Public Prosecutor.

Q. Now, briefly summarised, what was the outcome of the fight of the SS legal system against crime in concentration camps?

A. Altogether, approximately eight hundred cases were investigated, of which four hundred were brought to trial and two hundred ended with sentence of the Court. Among the cases investigated were proceedings against five commandants of concentration camps; proceedings against two commandants were completed and ended with a sentence of death by shooting.

Q. Were any difficulties put in the way of your commissions conducting these investigations?

A. Very considerable difficulties were put in the way of these commissions. These difficulties originated with Pohl, who was using every means in his power to prevent the investigating commissions from

penetrating to the real source of these crimes. In that way, the legal system, being unable to make rapid progress and being compelled to break up piecemeal the secrecy surrounding the evidence, was forced to work together with detainees. In almost every camp in which such a commission was at work, confidence men were recruited from among the detainees, who submitted material to the investigating judges. But it was very difficult to persuade these detainees to co-operate, because they feared that they would be killed if their activities were discovered.

Q. But could you not easily have removed these obstacles by reporting them; for instance, to Himmler? Pohl, as far as I know, was directly subordinate to Himmler so that Himmler could have given him the necessary orders?

A. Oh, no, this man Pohl did not proceed as clumsily as that. Outwardly he pretended to welcome and with all means support the investigating work of the head office "SS Courts." And that was how he represented the matter to Himmler after we had drawn Himmler's attention to Pohl's somewhat doubtful role. In reality, Pohl sabotaged with all the means of his tremendously powerful position the investigations we were making and worked hand in glove with the detainees and the criminal commandants, as was clearly proved by reliable evidence.

In 1941, to mention one outstanding example, when our first investigation in the Buchenwald concentration camp failed, as I have described, Pohl wrote a letter to the camp commandant Koch, which I have read myself, and which contained the following:

"I shall use all the power of my position to protect you if some unemployed lawyer should again stretch out his greedy hangman's hands towards your innocent, blameless person."

That is how Pohl always worked, because he was not only caught in the death machinery of the concentration camps, but in the same manner involved in other affairs and became one of the most corrupt persons in the

whole Reich. Of that we found evidence towards the end of the war; evidence which we obtained through the many proceedings against organizations which he headed in private business. As head of that criminal clique, he actually tried to destroy the system of confidence men among the detainees, which he knew might endanger his own person. One of our confidence detainees in the camp of Sachsenhausen, his name was Rothe, was locked up at his command, and Pohl tried by false pretences to obtain an order from the RHSA, or rather the Reich Criminal Police Department, to have the man hanged: publicly before all the detainees of the camp, so as to intimidate them and at the same time make the investigation work of the legal system impossible. One of our investigating officers heard of this in time and was able to prevent it at the last moment.

Q. More slowly, please, witness, much more slowly. These are important statements, and the translation is not simple.

A. That was how this criminal Pohl worked. The most important support for his fight against the legal system was the Fuehrer Order No. 1, regarding secrecy, which was posted in every office of the SS and police. According to that order, matters which had to be kept secret could only be communicated to the persons immediately concerned, and even those could be told only as much as they absolutely had to know, and even then, only in the period in which they were actively concerned with the particular matters involved.

Everything in the concentration camps was secret; only with special passes and authority was it possible to enter them. The work done by the detainees was secret, supposedly because "V" weapons were being produced. The life led by the detainees was secret, supposedly for reasons of counter-intelligence. Correspondence on concentration camps was a "Secret Reich Matter," and for that reason not available at all. For years Pohl could easily withdraw to the other side of this screen of close secrecy, and he surrendered to the advancing investigation of the legal system only

step by step, whenever, on the basis of individual revelations, he was systematically cornered.

Q. Then, witness, do you believe that with the results you have just described, you came near to discovering the real extent of the crimes, as it - and this we now know from the proceedings here - as it actually existed?

A. As I know it today, no. And the reason for that is that the legal system of the SS and police dealt with all these crimes as individual crimes, and the system of criminality which has now been revealed could not be penetrated for a number of years. When towards the end of 1944 the legal system succeeded, on the strength of the evidence in these individual cases, in cornering the criminal Pohl and also Grawitz, and Muller from the Gestapo, who was covering up many of the crimes, it was then for the first time that these men spoke of "orders from above." The investigations which the legal system then commenced along a new line collapsed together with the German war machine.

Q. Did you then towards the end of 1944 come near to discovering the actual extent of the crimes, the mass exterminations?

A. It was clear at the end of 1944 that orders from above had to exist, but that mass exterminations of a tremendous extent were being carried out, that was not recognizable even then.

Q. According to the outcome of the investigations you have just described, who was responsible for the crimes which were revealed?

A. Of the highest ranking, Pohl, next to him the former Reich Medical Officer of the SS and Police, Grawitz, and next to him the Chief of the Gestapo, Muller. Apart from these, commandants of concentration camps, members of the commandants' staffs, medical officers in concentration camps, and, to a considerable extent, criminal detainees in the concentration camps.

Q. Would it therefore be correct to say that, without distinction, all members of the groups of persons which you have just mentioned

participated in the crimes?

A. No, that is not correct. The investigations which we carried out proved clearly that certain camps were perfectly in order, that not every commandant was a criminal, and that many members of the commandants' staffs and many medical officers knew nothing about the crimes, that most of all the guards in the concentration camps had nothing whatever to do with the crimes, because they themselves were unable to gain knowledge of the real happenings within concentration camps.

Q. Earlier you spoke of the commandant of the concentration camp of Buchenwald, Koch. His case has already been mentioned in the course of these proceedings, and the prosecution at that time alleged, on the basis of testimony given by the detainee Blaha, that Koch had been sentenced for embezzlement and for the murder of three persons whose existence was inconvenient to him. The prosecution described the case in a way which gave the impression that at that time the SS Court had simply ignored the numerous other cases of killings. Is that correct, as far as you know?

A. No, that is not correct. The proceedings against Koch were based on a charge of corruption, and on that charge he was sentenced to death. The actual contents of the findings against Koch, that is, the reason for the death sentence imposed on him, was the system of murder in many instances, a system which Koch invented and pursued. This type of findings had to be chosen, because there was evidence of so many crimes which Koch had committed in the distant past, and of which the traces had meanwhile been eliminated, that if it had been possible at all, it would have taken long months and years to clear up such individual cases. It was for that reason that, using the shortest possible means of proof to put a stop to Koch's activities at once, these three cases were taken up as being typical, but he was, in fact, sentenced for the system of murder in the Buchenwald concentration camp.

DR. PELCKMANN: The testimony of this witness on these events is supported by the Affidavits SS 64, 65, 66, 67, 68 and 69. No, not 68, I listed that by mistake; not 68, but 64 to 67, and 69. These affidavits were deposed by the investigating judge, Dr. Morgen, who was to have appeared here as a witness. Unfortunately, he only arrived at the beginning of July, just before the hearings before the Commission were completed, and I was not able to prepare him for his examination in time. I have submitted his affidavit, however, and the High Tribunal will be able to judge whether it might possibly be necessary to hear Dr. Morgen in person, since his testimony concerns the most important matters.

BY DR. PELCKMANN:

Q. What was Himmler's attitude with regard to these investigations?

A. When the crimes were discovered at Buchenwald, at the end of 1943 Himmler was given a report on the matter at once, and he was throughout kept informed of the progress of the investigations. Himmler displayed very considerable activity, and he himself ordered that the investigations were to be carried out in the strictest manner. Only with his authority was it possible at all to pass through the gates of the concentration camps. Then in the middle of 1944 he suddenly issued an order to the contrary. As appointing authority, he ordered that the proceedings against Koch should mark the end of all judicial investigations in concentration camps. Koch had been sentenced to death and was to be hanged publicly before the assembled detainees. Pohl was to direct the execution personally, and was to address the guards who would attend in an appropriate manner. The remaining perpetrators were to report their crimes voluntarily, and in the event of such a voluntary report, he, Himmler, might possibly pardon or reprieve them. Anyone who failed to report his crimes could only expect the court's sentence of death. The chief of the head office "SS Courts" protested against this order from Himmler. He did not, however, obtain a final decision from Himmler, though Himmler tolerated the future proceedings.

The head office "SS Courts" at that time intentionally delayed the completion of the case against Koch so as to have an opportunity of extending the investigating activities to other camps, and that was actually achieved. The investigating commissions of the Reich Criminal Police Department, which had already been withdrawn as a result of Himmler's order, resumed their activities, and from the autumn of 1944 the investigations were continued on a broad basis. Authoritative powers, which were necessary in view of Pohl's continuing resistance, were issued by the personal judge of the Reichsfuehrer, and could not be ignored even by Pohl.

DR. PELCKMANN: The details of this dramatic exchange between Pohl, Himmler and the SS legal system are also described in Dr. Morgen's affidavits Nos. 65 to 67.

Q. Did you, witness, in the course of these investigations, find measures or orders from Himmler or Hitler for the biological extermination of Jewry?

A. No. We neither saw such orders at any time, nor did we succeed, in the course of our investigations, in getting hold of them or in gaining knowledge of them in any other way. Such monstrous Orders we could not imagine. Himmler had always shown us only an ideal face: cleanliness, decency, fight against crime at all costs. At the end of 1943, on the occasion of a conference, he confirmed these principles to me personally and in detail. That a system of mass extermination could exist was an idea which, under the circumstances, no one could possibly imagine. We found horrifying conditions in the concentration camps, and we learned many things which shocked us, but that idea was never in our minds. Names like Hoess and Eichmann did come up during our investigations and proceedings were, in fact, instituted against both, but at the end of the war they were still in their initial stages. But Hoess and Eichmann were to us names like Brown or Jones. No one could possibly guess that behind these men the henchmen of a dreadful system of extermination were hiding. Even

when, at the end of 1944 and the beginning of 1945, we came near to establishing the actual cause of the crimes committed in concentration camps, namely, that crimes were being carried out by order, this line of defence of Pohl, Muller and Grawitz still appeared incredible, because if there really had been orders from above, carried out by these three persons, then it should have been easy for them to go to Himmler and to demand the exclusion of the legal system from these matters.

And so we ourselves, in spite of these painfully achieved results of the investigations, had no clear judicial evidence that mass exterminations on a large scale, not to mention the biological extermination of Jewry, had been carried out, and we continued, as before, to investigate the crimes from the point of view that they were individual perpetrations, although we knew that they had been carried out to an alarming extent and in alarmingly large numbers.

Q. There exists a pamphlet called SS in Dachau, issued by the American CIC, by a Colonel Quinn. Unfortunately, I cannot submit it to the Tribunal at this time, because I had to return it. But it is in the library and is generally known. It contains testimony given by an anonymous inmate and signed -

THE PRESIDENT: You should have taken a copy of the document. You cannot testify or tell us what the document is if you cannot produce it. The fact that it had to go back to the library is no reason why you do not have it. There would have been no objection to your bringing a copy of it.

DR. PELCKMANN: May I try to bring a copy after the recess, Mr. President?

THE PRESIDENT: Yes, if you would like to.

DR. PELCKMANN: It contains a statement by an anonymous -

THE PRESIDENT: Well, we do not want to know what it contains. We do not accept from you what it contains.

DR. PELCKMANN: In that case, I shall postpone this question.

BY DR. PELCKMANN:

Q. Witness, evidence has been submitted to this Tribunal that in the gas chambers at Auschwitz and other places millions of Jews were murdered. You, however, discovered in your investigations that individual persons and a small circle of persons committed the crimes which you described. Is it possible, as far as you know, that this comparatively small circle of persons is also responsible for the extermination of these millions?

A. Investigations of the head office "SS Courts," particularly the final stages of the investigations just before the end of the war, show that individual persons and a small circle of persons are also exclusively responsible for these things. Otherwise, these outrageous things could not possibly have escaped the attention of the legal system for so long.

Q. Did you, in your conversations with Dr. Morgen, gather any further information which might support this assertion?

A. Dr. Morgen was a judge before me, who, during the whole period, was attached to the Reich Criminal Police Department in order to carry out investigations of the concentration camps from there. Dr. Morgen has extensive knowledge. I know, today, that he himself talked with those responsible for these mass exterminations, and he gained a clear insight into all these matters. He can prove that the origin of the exterminations of the Jews is not to be found in the SS, but in the Chancellery of the Fuehrer.

THE PRESIDENT: Dr. Pelckmann, I understood from you that you put -that you were putting in two affidavits from Dr. Morgen, is that right?

DR. PELCKMANN: Three, Mr. President.

THE PRESIDENT: Well, three - five, if you like, but this witness cannot tell us what Dr. Morgen says. Dr. Morgen must speak for himself from his affidavits.

DR. PELCKMANN: In that case, perhaps I may return to this, when I submit the affidavits.

BY DR. PELCKMANN:

Q. It is alleged by the prosecution that these acts could not have been perpetrations of individuals, but that the logical application of the Party programme regarding the Jewish question had to lead to these crimes at Auschwitz. What can you say to that from your own knowledge and experience of the fight against, these crimes?

A. I have already said that Himmler always showed the SS only his ideal side, and these principles which he showed the SS were considered by the SS as principles of the Party programme. Hitler's order for the biological extermination of Jewry, as I know it today, is an absolute -



A concentration camp victim identifies an SS guard in June 1945.

THE PRESIDENT: He said that over and over again about Himmler showing his ideal side to the SS. He said it before, you know. He should not have to say it more than once.

DR. PELCKMANN: May I ask him, Mr. President, what his attitude is on the allegation of the prosecution that the extermination of Jews in Auschwitz was considered by members of the SS as a logical outcome of the principles which the SS had learned.

THE PRESIDENT: How can he give evidence about that? He can tell us what he saw and what he did. He has not told us yet whether he has ever been in the concentration camps.

BY DR. PELCKMANN:

Q. Witness, did you know anything about the Einsatzgruppen and Einsatzkommandos of the Security Police and the SD in the East, as they have been mentioned here in this trial?

A. I knew nothing about them. I only knew that Security Police were stationed in the operational zone in the East, where they carried out security measures; that, I believed, was the task of the Security Police in that area. The legal system never knew of any other orders in that connection, and it was only here that we heard of these things for the first time.

Q. Was it possible for members of the Waffen SS to leave the Waffen SS if they did not agree with the tasks which they were given, or the orders which were issued?

A. A possibility of this sort did not exist at all. Duty in the Waffen SS was military duty, legally established and legally recognized. Even members of the Waffen SS who had joined as volunteers were later, through the relationship between the Waffen SS and the Wehrmacht, bound by compulsory military service. It was therefore possible to leave the Waffen SS only by means of desertion, and then the deserter would have had to expect the full consequences of the law.

Q. It is stated by the prosecution that the criminal activities of the SS were so extensive and applied to so many cases of illegal acts that their illegality could not have remained hidden from the members of the SS. Is that correct?

A. The SS was not a single unit. I have already described the various organizations of the SS, and into the individual organizations, other than his own, a member of the SS had no insight. The average member of the SS had no possible way of knowing of the illegality of the General SS or the Waffen SS. He never saw such crimes committed, and so he could never hold the belief that he belonged to a criminal organization. He could actually not have had any idea of the crimes which have been established here.

DR. PELCKMANN: Your Lordship, finally, may I be allowed to put one question to the witness, arising from the fact that together with a staff he was occupied with the compiling of affidavits. If the High Tribunal desires to hear how these affidavits were obtained and compiled, then this witness can give information about it.

THE PRESIDENT: Yes, very well. You may ask him.

BY DR. PELCKMANN:

Q. One hundred and thirty-six thousand two hundred and thirteen affidavits were compiled and entered on printed forms in various files, together with a survey of the various fields dealt with, and a numerical classification of the affidavits in the individual groups of subjects. Who compiled those affidavits?

A. They were evaluated and compiled under my direction by fifteen SS interneers who were judges. Some 170,000 of the statements submitted were utilised. Of these, 136,213 affidavits and applications to appear as a witness were compiled to form a collection of documents. The rest are only requests for a hearing, etc. Those 136,000 statements in the collection were divided into various subjects, and they form part of the defence case of the SS.

Q. Where did you obtain this considerable number of affidavits?

A. Mostly from camps in the American and British zones; to a smaller extent, from the French zone; none at all from the Russian zone and from Austria.

Q. What procedure did you adopt in evaluating and compiling these affidavits?

A. I have just explained that in outline.

Q. Yes, we do not need details. Thank you. Did the selection -

THE PRESIDENT: Dr. Pelckmann, what I understood the witness to say was that there were 170,000 statements utilised, and somehow, from these 170,000 statements, 136,000 affidavits were obtained. Well, how were they obtained? The Tribunal would like to know. Before whom were they sworn?

DR. PELCKMANN: The witness will be able to explain that, Mr. President.

THE WITNESS: These 170,000 affidavits were sworn by interned members of the SS. Of this total figure of 170,000, 136,213 affidavits were, in fact, utilised by my colleagues. The remaining affidavits were not used, because they were either irrelevant or submitted inaccurately or too late.

THE PRESIDENT: You mean the whole 170,000 were sworn affidavits?

DR. PELCKMANN: Sworn before whom, witness?

THE WITNESS: Part of these 170,000 affidavits were not sworn. The 136,000 affidavits, however, were all sworn. We knew the decision of the High Tribunal that an affidavit sworn before a German lawyer would only be valid if it had been sworn before May of this year, and that after May of this year affidavits would have to be sworn before an Allied officer. That, however, was not done in all the camps. After May, 1946, some affidavits were still sworn before lawyers and courts and in accordance with the

decision of the High Tribunal those had to be discarded as invalid. For that reason, only 136,000 affidavits remained.

BY DR. PELCKMANN:

Q. Were the affidavits selected and evaluated on the basis that only affidavits favourable to the defence of the SS should be considered?

A. No, all affidavits were fully considered.

Q. How is it that on some subjects many thousands of statements are available, whereas on others only a few affidavits are contained in the list.

A. From the mass of the affidavits submitted, it is evident that the bulk of the SS members did, not understand the Indictment. They cannot imagine, for example, that they were active in a conspiracy; they cannot imagine that they were preparing a war of aggression. For that reason, members of the SS testified only on such subjects as appeared to them typical of their work in the SS, the serviceman at the front on his experiences at the front, and the member of the General SS on the type of his work in the years from 1933 to 1939.

Q. To give an example - the Tribunal will be able to see it later from the affidavits - for instance, under Roman figure IV, Nos. 1-9. Here is the question: "Was vexatious treatment in concentration camps forbidden?" Now, if there are only two statements on this point, does that mean that only two out of hundreds of thousands of members of the SS can confirm this prohibition, and that all others, and this would be important, know the opposite to be true?

A. No, that is just what it does not mean. It does mean that the members of the SS who were questioned could not make a statement on that point at all, because they did not know anything about it; they could give an answer neither in a negative nor in an affirmative sense, and for that reason they passed over it. Without making any statement at all.

Q. Do you think, judging with your knowledge of the various parts of the SS and their activities and of the attitude of the bulk of the SS men, that

these 136,000 affidavits or so represent the average knowledge of the bulk of the SS men, even though the entire strength of the SS was, of course, considerably above that.

A. One must note that most of the men and junior officers who represent the bulk had already been released at the time when the affidavits were deposed. It must also be considered that in many camps a great many technical difficulties existed and that in many camps the subjects of questioning were not uniform. In addition, statements of opinion from the Russian zone and from Austria are missing altogether. In spite of these considerable deficiencies, I believe that I can say, on the strength of my own knowledge of the typical activities of the SS, that the whole picture which these affidavits present can be considered as typical of the SS.

DR. PELCKMANN: Your Lordship, I have no further questions to put to this witness.

THE PRESIDENT: The Tribunal will adjourn.

(A recess was taken.)

DR. LATERNSEER: Mr. President, may I ask for permission to put a question to the witness in order to clear up one point which came up during this examination? It will take about three minutes.

THE PRESIDENT: What is the point, Dr. Laternser?

DR. LATERNSEER: I should like to ask the witness about a point which came up during the direct examination by the defence counsel for the SS, and which concerns the guarding of concentration camps.

THE PRESIDENT: How does that affect the High Command?

DR. LATERNSEER: There could be a connection through the higher official channels, a connection which might possibly incriminate the accused organization.

THE PRESIDENT: No, Dr. Laternser, the Tribunal rejects your application.

THE PRESIDENT: Does the prosecution wish to cross-examine?

BY MR. ELWYN JONES:

Q. Witness, you were an SS man from 1933 on, were you not?

A. Yes.

Q. And during most of that time you were connected with the SS legal system?

A. Yes.

Q. Would a serious view have been taken in the Waffen SS or the German Army about the murder of Jews by SS men?

A. I did not understand the question.

Q. I will repeat it. Would a serious view have been taken in the Waffen SS or the German Army about the murder of Jews by SS men?

A. If the extermination of the Jews on Hitler's orders had been known in the SS, or, as you say, in the Wehrmacht, I am certain that there would have been concern.

Q. If an SS man had murdered fifty Jews, would that have resulted in a death penalty being inflicted on him?

A. I cannot answer this question in simple words, because it touches on a basic problem.

Q. I want you to look at the document dated the 14th of September, 1939, which shows the tolerance of murder in the SS by the highest judicial authorities and the German Army. It is D-421 which will be Exhibit GB 567. The first page of the memorandum:

“The Chief of the Army judiciary announces by telephone. The Field Court Martial of the Kempf Armoured Division has sentenced an SS man of the SS Artillery Regiment to three years' imprisonment and a military police sergeant-major to nine years' penal servitude for manslaughter. After about fifty Jews, who had been used during the day to repair a bridge, had finished their work in the evening, these two men drove them all into a synagogue and shot them all without any reason. The sentence is submitted to the Commander-in-Chief of the 3rd Army for confirmation. The proposal

of the representative of the prosecution is capital punishment for murder.” Then there follow initials. Then there is a marginal note: “General Halder requests information on the decision of the Commander-in-Chief of the 3rd Army.” Then purple pencil notes: “To the Adjutant of the Commander-in-Chief of the Army.” And on the next page you will see the course of this history. “Telegram to the Military Judge of the 4th rank attached to the Quartermaster General in Berlin. SS man Ernst is granted extenuating circumstances because he was induced to participate in the shooting by a corporal handing him a rifle. He was in a state of irritation owing to numerous atrocities committed by Poles against persons of German race. As a SS man, particularly sensitive at the sight of Jews, to the hostile attitude of Jewry to the Germans, he therefore acted quite thoughtlessly in a youthful spirit of adventure. An excellent soldier not punished before.” And that is signed by the military judge of the 3rd rank Lipski. And then there are purple pencil notes on the document, “To the Adjutant of the Commander-in-Chief of the Army,” pencil note, “Telephone call from Oberkriegsgerichtsrat Dr. Sattmann to the effect that so far as has been ascertained the C.-in-C. of the Army H.Q. will not confirm both sentences.” Then added, in pencil, “The sentences have been dropped under the amnesty. Punishment was announced before the amnesty. Nine years’ penal servitude for the police sergeant-major changed to three years’ imprisonment. Three years’ imprisonment for SS man unchanged. Confirmed by Army Headquarters.”

Now, that was a clear countenancing of mass murder by the judicial authorities of the German Army, was it not?

A. This document, as I understand it, in the second part regarding the explanation for the mild sentences on the two SS men, is a personal opinion of Kriegsgerichtsrat Lipski, who, as the presiding judge, passed the sentences. Therefore, since I do not know other details of the case; I am not

in a position to say whether the reasons which the presiding judge gives deviate from the facts or not.

Q. But - just for a moment. Do you appreciate that for the murder of fifty Jews - and if the facts as reported in this German document are true, it could have been nothing but murder - there was, first of all, a finding of manslaughter. You as a lawyer will appreciate what I am implying - and secondly that this ... that army judge passed a sentence of three years' penal servitude for the murder of fifty. He was one of your legal colleagues of the Army, and I suggest to you that this is typical of your attitude - particularly that of the SS and the Army's judicial authorities - to the murder of what you were pleased to call subhumans.

A. May I say the following: A question of law, whether the verdict is based on manslaughter or on murder, is undoubtedly at issue here. The actual grounds which caused the judge to convict the man of manslaughter instead of murder are not indicated in the document. For that reason, I cannot take a stand on the question put to me.

Q. But you know it is indicated perfectly clearly. The reason why it, was reduced to manslaughter was that this man Ernst, being an SS man, was particularly sensitive at the sight of Jews, and therefore it was just a youthful adventure - that is what was operating in the judge's mind. You know it is perfectly clear? You -

A. I should like to say this: As the document states, the prosecution in the case asked for a verdict of murder and for the death sentence. The presiding judge did not, in his verdict, convict the men of murder but of manslaughter. According to the German Penal Law, the difference between manslaughter and murder is that murder is an action carried out after previous deliberation with the aim of killing a person, while manslaughter is an act of emotion, resulting in the death of a person. The judge after considering the circumstances here based his verdict on this latter legal qualification.

Q. Witness, I am obliged to you for your dissertation on the difference between manslaughter and murder. I think the Tribunal is familiar with it. But, at any rate, the end of this story was that the Army Commander-in-Chief would not confirm the sentences.

A. That is correct.

Q. The sentences were dropped under the amnesty. That is the end of this - this suit of murder by the army judicial authorities, amnesty and pardoning of the whole thing. I want you - I want you now to turn to another document so that the Tribunal can judge how zealous the German authorities were in the pursuit of the SS crimes. It is D-926, to be Exhibit GB 568. This comes from an earlier period, not from the days when the Poles or the others, who you said were responsible, were operating. These were the pioneer days of the SS, 1933, when you joined them. This is a file relating to the deaths of prisoners in protective custody at the concentration camp of Dachau. It starts with a letter dated 2nd June, 1933 from the Provincial Court Public Prosecutor to the State Ministry of Justice. It is headed: Deaths of prisoners in protective custody at the concentration camp of Dachau. It relates to the Schloss, Hausmann, Strauss and Netzger cases:

“In accordance with my instructions, I had a lengthy discussion on the 1st June, 1933, with Police Commander Himmler in his office at the Police Headquarters, Munich, about the incidents at the concentration camp of Dachau, which I have already reported to the Ministry of Justice separately; in particular I told him briefly, with the aid of the photographs from the investigation files, about the Schloss, Hausmann, Strauss and Netzger cases, of which he appeared to have been advised already. I pointed out that particularly the four above-mentioned cases, in view of the result of findings to date, offer good reason for cogent suspicion of serious punishable actions on the part of individual members of the camp guard and of camp officials, and that both the Public Prosecutor and the police authorities, to whose knowledge these incidents have come, are liable to

heavy punishment if they do not carry out their obligation of making a criminal investigation of the above-mentioned incidents without consideration for any persons whatsoever.”

I do not think I need trouble you with the rest of that document. Document 2 is a letter from the Provincial Court Public Prosecutor to the State Ministry of Justice, dated the 11th August, 1933. So you see, witness, no action had apparently been taken from the 2nd of June until the 11th of August. And then the Provincial Court Public Prosecutor, in the last sentence of that letter, after referring to the dossiers relating to Schloss, Hausmann, Strauss and Netzger, says:

“Should the dossiers not be required at present, I would request the return of these files for the purpose of examining whether the decree of 2nd August, 1933, regarding the granting of immunity from punishment has to be applied.”

I need not trouble you with the third document, or the fourth. If the Tribunal turns to Page 5 of its copy, and if you, witness, turn to Document 8, which is the next I wish to refer to - that is a report from the Provincial Public Prosecutor to the State Ministry of Justice:

“Death of the prisoner in protective custody Hugo Handschuh in Dachau camp.” Have you found that, witness?

A. Yes, I have found it.

Q. I am reading from Page 5 of the English text:

Subject: “Death of the prisoner in protective custody Hugo Handschuh in Dachau camp.

The judicial autopsy ordered by me took place in Dachau on the 23rd of September, 1933” - I’m reading from Page 5 of the English text now - “It showed that death was due to a brain injury owing to haemorrhage in the soft membrane and that this haemorrhage was caused by blows with a blunt instrument, which hit the skull particularly in the region of the left temple and the back of the head. In addition, extensive bleeding was established in

the corpse in the region of the left cheek, in the right shoulder and left upper arm regions, in the regions of the seat and the upper thigh and of the lower part of the left thigh - the results of blows on the body of the deceased with a blunt object, during his lifetime. On the findings based on the post-mortem, the preliminary medical opinion gave grounds for assuming outside responsibility.

I intend to continue the further necessary search for the perpetrators in collaboration with the Political Police.”

And it is brought to the attention, as you see, of the Prime Minister with a request to take note and forward to the Reich Governor in Bavaria. And then there is a notice given to the State Minister of the Interior.

Then, Document 11, Page 9 of the English text. Proposal made by the Minister of the Interior to quash the inquiry into the deaths of the protective custody prisoners, Handschuh, Frantz and Katz. Handschuh, you will remember, witness, was the subject of the autopsy which indicated outside responsibility.

This is a letter from Adolf Wagner to the defendant, Dr. Frank, the representative Nazi jurist. The letter, which has been in court, is dated the 29th of November, 1933.

THE PRESIDENT: What Dr. Frank do you refer to?

MR. ELWYN JONES: That is the defendant Frank, my Lord.

THE PRESIDENT: Yes, go ahead.

MR. ELWYN JONES:

“The Commander of the Political Police in the Ministry of the Interior presented to you on the 18th of November, 1933, a proposal, according to which the inquiry into the cases of the prisoners in protective custody, Hugo Handschuh, Wilhelm Frantz and Delvin Katz, should be quashed for State political reasons. In connection with this case, you sent to me the liaison man of the State Ministry of Justice with the Bavarian Political Police, Public Prosecutor Dr. Stepp. Meanwhile, in a discussion with the

Commander of the Political Police, Reichsfuehrer SS Himmler, I have ascertained once more that to carry out this inquiry would cause considerable damage to the reputation of the National Socialist State because this inquiry would be directed against members of the SA and SS and thus the SA and the SS, as the main pillars of the National Socialist State, would be directly affected. For these reasons, I support the proposal for quashing the inquiry presented to you on the 18th of November by the Commander of the Political Police in the State Ministry of the Interior.”

I do not think I need trouble with the rest of that letter. It states that the inhabitants of the concentration camp are almost exclusively criminal types.

THE PRESIDENT: Mr. Elwyn Jones, the document you have just been reading from, which is on Page 9 of the English text, is dated the 29th of November, 1933. Is that a misprint?

MR. ELWYN JONES: No, my Lord, that is correct.

THE PRESIDENT: The document on Page 5 which you read before, from the Public Prosecution, is dated 26th September, 1936. Is that correct?

MR. ELWYN JONES: No, my Lord, that is a misprint and I should have called your Lordship’s attention to it. That should be 1933, my Lord, and I am much obliged.

THE PRESIDENT: That is Page 5. In referring to the document, you should state that the pages which you did not refer to, Pages 3 and 4, show that the other dossiers, in connection with the Public Prosecutor, Provincial Court, Munich, were apparently lost and were not forthcoming and that inquiries were going on about them until 1935.

MR. ELWYN JONES: Yes, my Lord. Much obliged. I was trying to deal with the essential contents of the file.

THE PRESIDENT: Go on, then.

MR. ELWYN JONES: I want you, witness, to look at Page 6 of the English text and Document 10 of your file. That is a memo from Dr. H.

Frank, the defendant, dated 2nd July, 1933, to the Prime Minister, and the subject is "Quashing of Criminal Proceedings."

"A merchant's wife, Sophie Handschuh, of Munich, in a written statement received by the Public Prosecutor at the Provincial Court, Munich II, on the 18th of September, 1933, stated that her son, Hugo Handschuh, taken into protective custody on the 23rd August, 1933, died of heart failure in Dachau camp on the 2nd of September, 1933. In the inquest certificate, heart failure following on concussion of the brain was given as the cause of death. The body was not shown to the relatives and was handed over only after great difficulties and on condition that the coffin would not be reopened. The coffin was so firmly nailed down that it was impossible to reopen it. The writer asked that the coffin be opened and a judicial post-mortem held, as she wanted the body identified and the cause of death established.

In order to clear up the state of affairs, the Provincial Court Public Prosecutor at the Provincial Court, Munich II, at first, personally questioned the plaintiff, Sophie Handschuh, and the fiancée of the deceased, Thea Kink. From their evidence, the assumption seemed justified that already on the day of his arrest Handschuh was badly physically treated in the Braune Haus in Munich, and in connection with the further established fact that the relatives of the dead man were expressly refused permission to view the body, sufficient grounds were given for the suspicion that Handschuh did not die a natural death. In order to establish the cause of death without any doubt, the body was exhumed in Dachau on the 23rd of September, 1933, and a judicial autopsy carried out on the orders of the Provincial Court Public Prosecutor. It showed that death was caused by injury to the brain, as a result of a haemorrhage of the soft membrane of the brain, and that this haemorrhage originated from blows with a blunt object, which hit the skull particularly in the region of the left temple and that of the back of the head."

Then there follow further details of the autopsy which have been given in another document I have read.

The findings of the judicial autopsy gave ground for assuming outside responsibility.

Paragraph II: "In the forenoon of the 19th October, the Public Prosecutor at the Provincial Court, Munich II, informed by telephone by the Bavarian Political Police that in the afternoon of the 17th of October, 1933, Wilhelm Franz, of Munich, a prisoner in protective custody, born on the 5th of June, 1909, and on the night of the 17th-18th of October, 1933, Dr. Delvin Katz, of Nuremberg, a prisoner in protective custody, born on the 3rd of August, 1887, hanged themselves in their military confinement cells in Dachau concentration camp. The Public Prosecutor ordered the same morning an investigation to be held in the camp, followed by a post- mortem. The corpses in a locked camp shed were lying on stretchers, and, with the exception of the feet, were totally undressed. In Franz's cell, fresh blood spots and splashes were observed on the wooden plank bed."

And then it goes on to say that a judicial autopsy was ordered on the 20th of October.

According to the next paragraph:

"The autopsy gave grounds for suspecting in respect of both corpses that force by an outside hand had been used. According to the preliminary opinion of both court doctors, Provincial Court Doctor Flann and Court Doctor Niedenthal, death by suffocation, as a result of strangulation and throttling, was established in both cases. The strangulation marks found on the neck do not correspond to those shown in the case of persons hanged. In respect of Franz's body, it is also stated in the preliminary opinion that fat embolism is not prima facie to be excluded as a contributing cause of death. Fresh weals on the body - fresh weals on the head, covered with hair, as well as particularly numerous ones on the body and the arms, with extensive bleeding and destruction of the fatty tissues, were established on

this corpse, apart from injuries on the neck. Also Katz's body showed various signs of drying up and rubbing off of the skin of the head and one separation of the skin.

At the time of the examination, the Public Prosecutor had demanded the production of both belts with which Franz and Katz had allegedly hanged themselves; they could not be handed over at once. The Dachau lower Court had ordered the confiscation of the belts, in accordance with the application. Until now, the objects, confiscated had not yet been received by the Public Prosecutor."

Then paragraph III: "In each case I informed the Prime Minister, and through him the Reich Governor in Bavaria, as well as the State Minister of the Interior, of the Public Prosecutor's reports.

In a letter of the 29th of November, 1933, addressed to me, the State Minister of the Interior proposed that, for State political reasons, the inquiry by the Public Prosecutor of the Provincial Court, Munich 11, into the deaths of Hugo Handschuh, Wilhelm Franz and Dr. Delvin Katz, prisoners in protective custody, should be quashed. As a reason, it was pointed out that the conducting of investigations would cause great harm to the prestige of the National Socialist State, since these proceedings would be directed against members of the SA and SS and thus the SA and SS as the chief protagonists of the National Socialist State would be immediately affected." And then Frank goes on to give an opinion in law that the Reich Governor in fact has the right of pardoning. He states that - in the last part of the last paragraph but one - "the constitutional deed of the Free State of Bavaria of 1919 forbade the quashing of criminal investigations. The law regarding the quashing of criminal investigations of 2nd August, 1933, removed the ban on quashing. According to the Bavarian provincial law at present valid, the legal possibility therefore exists of quashing individual criminal proceedings by means of an administrative act in the form of a pardon." And then he states that this right is vested in the Reich Governor of Bavaria.

And then Frank suggests that “in view of this legal position, the proposal of the State Minister of the Interior be submitted to the Council of Ministers.”

The next document, Page 10 of the English text, Document 12 of the German text, indicates that the Council of Ministers was not prepared to countenance the quashing. And it states:

“The proposal of the State Minister of the Interior that the inquiry pending into the death of the prisoners Handschuh, Franz and Katz, who were in protective custody, be quashed, was the subject of a debate during the meeting, of the Council of Ministers of the 5th of December, 1933. As a result, the State Minister of Justice communicated the following to the undersigned official: ‘The criminal proceedings regarding the happenings in the Dachau concentration camp are to be continued with all determination. The facts are to be cleared up with the utmost speed.’”

Then there are various instructions with regard to the inquiries.

The next step of this story is Document 12 of the German file, Page 11 of the English text:

“Presented to the State Minister with the request that he take note. The rote of the first Public Prosecutor, Dr. Stepp, regarding the carrying out of his instructions is attached with the request that note be taken.

By order of Ministerial Counsellor Doebig, I communicated to the Reichsfuehrer SS Himmler the decision taken yesterday by the Council of Ministers concerning the cases of Handschuh, etc. The Reichsfuehrer SS told me that the matter greatly concerned the Chief-of-Staff of the SA, Reich Minister Roehm. He (Himmler) had to discuss the matter with the latter first.”

Then Roehm gives certain instructions which this correspondent Dr. Stepp writes down from memory:

“The Dachau camp is a camp for prisoners who are in protective custody and who were imprisoned on political grounds. The incidents concerned are

of a political nature and under all circumstances the political authorities must decide first about them. To my mind they are not suited to be dealt with by the legal authorities. This is my opinion as Chief-of-Staff and also as Reich Minister who is interested in the Reich not suffering politically because of the proceedings in question.

I shall get the Reichsfuehrer SS to issue an order that no investigating authorities may enter the camp for the time being and that people in the camp may also not be interrogated for the time being.”

Then there is a note:

“The Court of Appeal, Munich, was instructed by a directive from the Minister to refrain for the time being from making an application for the opening of preliminary investigations.”

Then follows the next document, Document 13, a letter to the Public Prosecutor on the deaths of these men Franz and Katz.

“With regard to the above-mentioned matter, I have, as instructed, requested the Bavarian Political Police to clear up the matter further in conjunction with the commandant’s office of the concentration camp of Dachau and to endeavour to find out the persons who are suspected of having been the culprits. In this request I mentioned also that I have not yet received the legally confiscated instruments of suicide (belt and braces) of the dead men.

The Political Police have apparently transmitted the files without any written direction to the Political Department of the concentration camp of Dachau.”

The first paragraph of this letter reads:

“The latest application for production of evidence from the Public Prosecutor, Munich II, shows what far-fetched means are employed in order to saddle the concentration camp of Dachau with allegedly perpetrated crimes.”

In the second paragraph of the letter regret is expressed that the two dead men were able by their suicide to escape impending punishment for

smuggling letters. The third paragraph refers to the confiscation and reads: “After the two corpses had been dissected, according to law, and had been released, the commandant’s staff had no further interest in the preservation of the instruments with which they had hanged themselves. The commandant’s staff are not among those objectionable Kulturmenschen (cultured people) who preserve such articles as souvenirs, as was done in America recently in the Dillinger case.”

The letter is signed on behalf of the camp commandant by SS Obersturmbannfuehrer Lippert.

Then there is a request by the Public Prosecutor for action.

In the next letter there is a reference to this letter from the camp commandant of Dachau which shows that the request of the Oberstaatsanwalt arose from the impartial observation of his official duty, and then the file closes with this entry:

“Munich, 27th September, 1934, Public Prosecution. Letter from the Oberstaatsanwalt to the Generalstaatsanwalt at the Court of Appeals, Munich.

Subject: Death of the prisoners in protective custody Wilhelm Franz and Dr. Katz in the concentration camp Dachau.

I have stopped the proceedings, as the investigations have not produced sufficient grounds for the assumption of outside guilt in the deaths of the two prisoners in protective custody.”

BY MR. ELWYN JONES:

Q. Well, now, witness, I have taken some time to read that document. That is a characteristic illustration of the fact that the SA and SS abominations in the camps were protected by the highest authorities of the Third Reich, is that not so?

A. This document is from the year 1933, at a time when the concentration camp Dachau was not manned exclusively by SS men. The

document indicates that the Prosecutor of the District Court in Munich suspected that some persons in protective custody had been murdered.

Q. Are you suggesting that conditions improved after the SS men took complete charge of running of the camps?

A. This document contains individual cases of the year 1933. But conclusions on the general conditions in concentration camps, particularly in the following years, cannot be drawn from the document.

Q. Did you know that the Waffen SS was making quite a profitable business out of killing people in concentration camps? Did you know that?

A. No.

Q. I want you to look at the Document D-960, which will be Exhibit GB 568. It is a very short document. It is headed:

“Waffen SS, Natzweiler Concentration Camp, Commandant’s Office - 24th March, 1943, Concentration Camp Natzweiler.

Bill to the Security Police and SD Strassburg.

For the twenty prisoners executed and cremated in this concentration camp, costs amounting to 127 Reichsmark, 5 pfennige arose. The commandant’s office of the Natzweiler Concentration Camp requests the early dispatch of the above-mentioned sum.”

The tariff for killing was very low in Natzweiler, was it not, six marks 38 pfennige for each dead man? Did you know that money was paid to the funds of SS for activities of that kind?

A. No. And as I understand it, this document does not show that at all. The concentration camp commandant here uses the stamp “Waffen SS,” but in this connection I must refer to what I said yesterday, that the term “Waffen SS” is misleading in so far as the concentration camp system was an independent institution of the police. This document seems to support my statement, since it shows that this horrible bill here was sent to the Security Police, that is, again to an executive organ. The Waffen SS -

Q. Just a moment. Assuming that the Security Police paid this bill, where would the money have gone to? It would have gone back to Natzweiler. What would have happened to it? Would it have been credited to the funds of the, Waffen SS or not?

A. The commandant's offices of the concentration camps, including Natzweiler, settled their bills with the Reich and not with the Waffen SS. I cannot say how this money was used and for what purposes it was spent, because

Q. Do you know - you have no knowledge of the financial arrangements of these camps with the Waffen SS, have you? If you have not, that suffices me for the moment.

A. No, no, from my activity in the head office "SS Courts" I know a little also about the economic control of the concentration camps, and as to this point, I know that the commandants' offices of concentration camps settled their accounts directly with the agencies of the German Reich and had no connection at all with other treasuries or agencies of the Waffen SS as such.

Q. As you please. Now you said in your testimony that the guards in concentration camps had not committed crimes, that whoever else was responsible, Pohl and one or two others, certainly it was not the SS guards. Were you serious when you said that, witness?

A. In order to avoid misunderstanding, I should like to make it clear here that when I spoke of guards I meant only those persons who guarded a concentration camp from the outside, in contrast to those members of the concentration camp guards who were employed inside the camp and on the commandant's staff and who, guarded the internal installations of the camp.

Q. But - but both those categories of guards were SS men, were they not?

A. As I have already said, they belonged to the so-called nominal Waffen SS without having anything to do with its organization.

Q. Well, I shall - I shall return to that point in a moment.

First of all, I want you to look at Document D-924, which will give you a picture of the - humanity and ethical attitude of SS guards. I am using a phrase which you used yourself regarding the SS. That is Exhibit GB 570, my Lord. It is a report, this time from a Dutch source, of the evacuation of the Rehmsdorff camp to Theresienstadt.

The first page is a statement by Peter Langhorst, who says:

“I am an ex-political prisoner and I have been detained in various prisons and concentration camps, finally in the Rehmsdorff camp.

At the approach of the Allied armies, this camp was evacuated and the prisoners, about 2,900 men, were transported from Rehmsdorff to Theresienstadt.

Most of these prisoners were Czechs, Poles, Russians, and Hungarian Jews. There were only a few Dutchmen among them.

Of these prisoners, only some 500 men actually reached Theresienstadt; the others were simply killed off during the transport by the so-called ‘shot in the neck.’

The corpses were thrown into mass graves which were filled up afterwards.”

Then - I need not trouble you with the rest of the statement, but you see a further statement with regard to that matter by Baron von Lamsweerd of Amsterdam, who was on this transport, who says at the end of the second paragraph:

“On the 12th of November, 1944, I was imprisoned in the concentration camp Rehmsdorff, where I stayed until my escape on 20th April, 1945. At the approach of the Allied forces, the camp at Rehmsdorff was evacuated in great haste and the political prisoners of this camp were transported to the camp Theresienstadt.

At first the prisoners were transported by train in goods vans. We arrived by train at Marienbad, where, for causes I do not know, we had a delay of

about one week. The vans with the prisoners were kept standing at the station. In the course of that week, Allied bombers attacked the Marienbad station and in the confusion some 1,000 prisoners escaped into the surrounding woods. Naturally the entire local service (the SS, Volkssturm, and Hitlerjugend) was set to work to recapture the escaped prisoners, and practically all prisoners, who of course wore their camp clothes and could easily be recognized, were recaptured. These prisoners, about a thousand men, were led back in groups to Marienbad station and there they were killed by the SS guards by a shot in the neck. As both engines of the train had been wrecked during the air attack, the prisoners had to walk all the way from Marienbad to Theresienstadt. Many among them were unable to go so far, and fell down along the road, totally exhausted; without exception, these prisoners were murdered by the guards by a shot in the neck. That evening their bodies were removed by lorry and buried in mass graves in the woods.”

And he says he thinks that he could point out where it was.

“I am fully prepared to assist in tracing them. When the transport started, I heard the SS guards saying that the total number of prisoners amounted to 2,775. Only some of these prisoners have reached Theresienstadt. The others were murdered during the transport. Near Lobositz, about seven kilometres from Theresienstadt, I myself escaped. The leader of the transport was the SS Oberscharfuehrer Schmidt, one of the henchmen of Buchenwald, who also there behaved in a most scandalous way towards the prisoners, and who was known to be a sadist.”

Do you still say that the SS guards portrayed the characteristics of decency?

A. I should like to emphasize that I did not say that the SS guards had the characteristics of SS members. I said that our investigations showed that the actual crimes in the concentration camps were committed by members of the commandanturen and that we found no evidence that the guards had any part in them and -

Q. Then let me show you - let me show you another document, the Document D-959, it will be Exhibit GB 571, which is a report to the Ministry of the Interior of the Czechoslovak Republic. I want you to turn to Page 3 of the report: "Crimes committed by the members of the Allgemeine SS and the Waffen SS."

The crimes committed by the members of the SS troops against the Czechoslovak and foreign citizens on the territory of the Czechoslovak Republic -

THE PRESIDENT: Mr. Elwyn Jones, is it not rather late to put in documents of this sort which are general reports by the governments of Allied countries? The case has been already fully made by the prosecution and to put in a new document of this sort, which is only a report of an Allied country, seems to the Tribunal to be an unusual course to take.

MR. ELWYN JONES: With great respect, my Lord, I submit that the prosecution is entitled to put in documents of this kind in rebuttal of the sort of testimony that this witness is giving. The conception that a witness should solemnly say that SS guards committed no atrocities was one which certainly did not occur ever to the prosecution, and in face of testimony of that kind I submit that the prosecution is well entitled to put in documents which do not deal with individual cases, as might possibly be objectionable to the Tribunal, but with the whole mass of testimony. I submit that until the very last moment the prosecution is entitled to put in such documents, regrettable though it is, perhaps, that they have not been put in before, but I do submit that the prosecution is entitled to put them in. If your Lordship pleases, if I might add a further comment to your Lordship's inquiry: the defence have, after all, produced over a hundred thousand affidavits and I do submit that in these circumstances, in view of that mountain of evidence, it is only right that there should rest upon the record the authority of statements submitted on behalf of the prosecution.

THE PRESIDENT: What is your submission, with reference to the construction of Article 21, concerning this document?

MR. ELWYN JONES: If your Lordship pleases, I submit that the terms of Article 21 make it mandatory upon the Tribunal to accept reports of this kind by governments, which are submitted by the prosecution.

THE PRESIDENT: Which are the special words to which you refer?

MR. ELWYN JONES: The Tribunal - The second sentence, "The Tribunal shall also take judicial notice of official governmental documents and reports of United Nations, including the acts and documents of the committees set up in the various Allied countries for the investigation of war crimes and the records and findings of military or other Tribunals of any of the United Nations." Now this document, my Lord, is - it has a certificate from the Czechoslovak Minister of the Interior on the face of it, certifying that it is a State Document, within the meaning of Article 21, and it bears the signature of the Minister of the Interior himself, so that I submit that quite clearly within the terms of Article 21 it is properly admissible and that the Tribunal should accept it.

THE PRESIDENT: Was there any committee or commission which drew up this document?

MR. ELWYN JONES: It is a report of the Czechoslovak Ministry of the Interior itself; it is a report of the State Department.

THE PRESIDENT: Report to whom?

MR. ELWYN JONES: Furthermore, my Lord, my learned friend, Mr. Griffith-Jones, draws my attention to Article 19 of the Charter:

"The Tribunal shall not be bound by technical rules of evidence. It shall, adopt and apply to the greatest possible extent expeditious and nontechnical procedure and shall admit any evidence that it deems to have probative value."

I do submit that even if you were to find, and I find it hard to think that you would, that this is not a document within the meaning of Article 21, it is

admissible under Article 19.

THE PRESIDENT: Yes. Now, do you want to say anything, Dr. Pelckmann?

DR. PELCKMANN: I believe, your Lordship, the decision of the Tribunal on this document should be the same as that on the two documents which we attempted in vain to introduce yesterday. Whether this document falls under Article 21, I cannot judge; the Tribunal will decide that. But I refer to the other point of view which your Lordship has already mentioned. It is very late to submit these documents now. Article 21 must be interpreted to mean only that such documents can be submitted during the presentation of the case of the prosecution. The prosecution's case is now closed and documents can only be introduced by submitting them to a witness; but since there may be hundreds, perhaps thousands of these cases, the defence must be given an opportunity to comment on them. It is not a question of testing the credibility of the witness, but it is actually a question of new evidence being presented by the prosecution and the defence must have an opportunity of answering it. I do not believe that this is the intention of Article 21, otherwise the trial would be extended indefinitely.

THE PRESIDENT: The Tribunal will adjourn and we will sit again at two o'clock.

(A recess was taken until 1400 hours.)

THE PRESIDENT: Mr. Elwyn Jones, the Tribunal will take judicial notice of the document which you were submitting under Article 21. But they do not think that you need deal with it at great length.

MR. ELWYN JONES: If your Lordship pleases. The Document D-959 will be Exhibit GB 571.

GUENTHER REINECKE RESUMED

CROSS-EXAMINATION BY MR. ELWYN JONES:

Q. Witness, have you any knowledge of the part played by SS units in the arrest and ill-treatment of the students of Prague on 17th November,

1939?

A. No. About that subject I cannot testify, as the fact of the participation is only becoming known to me now.

Q. You had no knowledge of the participation of the 6th SS Totenkopf Standarte in that matter, had you? I am referring to -

A. No.

MR. ELWYN JONES: I am referring, my Lord, to an entry in the previous Czechoslovak Report, Exhibit USSR 60.

BY MR. ELWYN JONES:

Q. You say you had no knowledge of that? This report -

A. No, I had no knowledge.

Q. This report refers further to reprisal measures against civilians suspected of contact with the partisans, in which the SS took part. Do you have any knowledge of SS troops taking part in reprisal measures against civilians?

A. I can testify to that in so far as it is known to me in which manner the Waffen SS was being employed. I know that the Waffen SS - and in this case it can only be the Waffen SS which is meant - was fighting at the front.

Q. I just want you to look at the last sentence but one in paragraph 2, Page 4 of Exhibit D-959; it is the fourth paragraph down in the English text. "On 4th May, 1945, after having plundered the village of Javorisko in, the district of Litovel, the SS burned it down. During this operation, the SS troops shot in the nape of the neck or killed in the burning houses all the male inhabitants of the village from the age of 15 to 70 years. Women with children, after having been ill-treated, were driven away. The operation, at which thirty-eight men lost their lives, took place because the inhabitants of the village were suspected of hiding partisans."

Have you any knowledge of that action or of actions of that kind that the SS took part in?

A. No. Such actions never became known to me. Obviously, we are here concerned with the last fight for Prague.

Q. I want you to turn to some further evidence about the ill-treatment by SS guards of transports of prisoners from concentration camps. The fifth paragraph on Page 5 of the report refers to 312 persons being beaten to death or shot, and their bodies buried in a coal pit. And you see it stated there that the beatings and killings were done by SS guards. It is very much like the Dutch report, is it not? And then there follows in the last section, crimes committed during the Prague Revolution in May, 1945, further accounts of SS atrocities.

Now, witness, I want you to look at a new document, D-878 which will be 3 GB 572, which is a report from the Statistical - the Scientific Statistical Institute, of the Reichsfuehrer SS on the composition of the SS. I want you to look, if you will, at the third page of the account, that is a page marked "Page 1." That sets out the - I am sorry, my Lord, I have not a translation of this, but I think the entries will speak for themselves. They are quite clear. That is headed "Total w strength of the SS as on the 30th of June, 1944." You will see it shows "Allgemeine SS" excluding - and the translation, I think, is - excluding those members who, at the moment, were serving as reserves of the Waffen SS, "Nicht einberufen." Total called up, 64,614.

THE PRESIDENT: Sixty-four thousand.

BY MR. ELWYN JONES:

Q. Sixty-four thousand. Called up in the Wehrmacht, 115,908. Called up to the Labour Front, 722. In miscellaneous duties, 19,254, a total of 200,498 of the Allgemeine SS. Now, can you tell the Tribunal whether those "not called up" among the 64,000-odd were performing police duties, or were some of those performing police duties?

A. In my view, the figures which are contained in the document refer to members of the General SS who were neither called up nor were carrying

out any other type of activity - who were following their civilian occupations at home; in other words, who were used in the economic life.

Q. The last category of 19,254 “on miscellaneous duties,” were these the people who were forming the personnel of the Einsatzkommandos?

A. That is absolutely out of the question, because the personnel of the Einsatzkommandos only consisted of a few hundred men. The conception of the “sonstiger Einsatz” (on miscellaneous duties) must refer to some other function which I cannot define at the moment.

Q. Well, now, you see that that page shows the total in the Waffen SS of 594,443. Now I want you to turn to Page 24 of this report.

THE PRESIDENT: Mr. Elwyn Jones, what is the final total described as?

MR. ELWYN JONES: The total, SS total 794,941.

THE PRESIDENT: Yes, but what does the second German word there mean?

MR. ELWYN JONES: “Insgesamt,” “altogether,” my Lord.

THE PRESIDENT: “Altogether.” I see.

BY MR. ELWYN JONES:

Q. You turn to Page 24 and you will see that the total of members of the Waffen SS of 594,443 is divided up into various categories. There are first the Feldtruppenteile, which are field units, 368,654. Then the next is, I understand, the recruiting staff, 21,365. The next category, training and reserve, 127,643. The schools, 10,822. Then other units and offices directly subordinate to SS leadership head office, 26,544. And then in the head office 39,415, making the grand total of 594,443. Now, those - that entry of 26,544 other units and offices directly subordinate to SS leadership head office- who were those men? Were they the personnel of the Einsatzkommandos?

A. I beg to repeat the answer I have just given you. That number cannot refer in any way to the personnel of these Einsatzkommandos, because that

personnel of these special units did not have anything to do with the SS itself, but came from various departments of the executive, in particular from the police. This figure of 26,524 of members of the SS must refer to members of offices and units who were not stationed in the principal departments, but who, on the other hand, were not fighting at the front, either, but who were located in the Reich territory at some -

Q. Witness, will you next turn to Page 28 of this document, which shows how the 39415 described on Page 24 as being members of the Head Offices of the Waffen SS are employed. It starts:

SS Head Office, 9,349; Waffen SS men engaged in the SS Economic and Administration Head Office - I beg your pardon, the second line - Waffen SS men engaged in the Race and Resettlement Office of the SS, 2,689. That was the office headed by Himmler which yesterday you said had nothing to do with the SS - the Waffen SS - at all. And then:

Third, is SS Economic and Administration Head Office; WVHA, that is, is it not - 24,051 Waffen SS men. Personal Staff of the Reichsfuehrer SS, 673; SS Personnel Head Office, 170; Head Office SS Law Courts, 599; Office of the SS Obergruppenfuehrer Heissmeier, 593; Reich Commissioner for the Consolidation of German Folkdom (1), 304; Reich Commissioner for the Consolidation of German Folkdom, Die Volksdeutsche Mittelstelle Office (2), 987. Making a total of 39,415.

That makes it clear, does it not, that Waffen SS men were engaged in all this hideous network of Himmler's machinery of terror?

A. I do not believe that that is what is shown by this. Yesterday I described in detail that the various leading departments did not have a unified supreme command. If, for instance in this case, members of the Waffen SS appear in the various leading departments, then this is to be traced to the fact that those serving there were called up into service with the Waffen SS because in that way it became unnecessary to put them down

as “unfit for service,” and they could thus be removed from the reach of the armed forces.

Q. All those men were carried on the strength of the Waffen SS; they were members of the Waffen SS; they wore Waffen SS uniforms, and they were paid by the Waffen SS. That is so, is it not?

A. That may well be, but that has a different significance, in so far as that did not make them members of the expanded organization but, as was often the case in war time, they merely donned the uniform and were paid accordingly. If I look at Page 28 of this document, I take, for instance, the SS Economic and Chief Administrative Department, and find the figure listed as 24,051 who were supposed to be members of the Waffen SS. In this connection I must say that this can only refer to guards in concentration camps, and that shows that these men, as so-called nominal members of the Waffen SS, were attached to the Chief Economic and Administrative Department, but in reality they had nothing to do with the Waffen SS.

MR. ELWYN JONES: If your Lordship pleases, I submit that the document speaks for itself, and I have no further questions.

THE PRESIDENT: The Tribunal would like to have translations of the documents, of these two documents that you have referred to.

MR. ELWYN JONES: If your Lordship pleases, they will be put in.

COLONEL SMIRNOV: My Lord, I do not wish to subject the witness to a detailed examination, I would like merely to be allowed to put one single question to him upon a matter which he dealt with yesterday and in connection with a very short document which was mentioned yesterday.

THE PRESIDENT: Yes. You may do so.

BY COLONEL SMIRNOV:

Q. Witness, did I understand you yesterday to say that there were honorary members of the SS?

A. Yes.

Q. You asserted that this position was only conferred in order to allow them to wear uniform? Did I understand you correctly?

A. Yes.

Q. I would like to show you a letter to Himmler from one of those people whom you named yesterday as being among the honorary members of the SS. I would like to read this very short document into the record. I quote:

“22nd July, 1940. Berlin W 8, Wilhelmstrasse 73.”

THE PRESIDENT: Is it 1944 or 1940?

COLONEL SMIRNOV: Nineteen forty, my Lord. It is a new document which bears the Number USSR 512. It was found by the Red Army in the Berlin archives. It will be submitted now to the Tribunal. I quote:

“My dear Himmler: I was highly pleased to learn of my promotion by the Fuehrer to the rank of Obergruppenfuehrer of the SS. You know my attitude to your SS and how greatly I admire their development, which was the fruit of your own work. I shall always consider it a special honour to belong to this proud corps of the Fuehrer, which is of decisive importance for the future of our Greater German Reich. I remain your faithful friend, Joachim Ribbentrop.”

BY COLONEL SMIRNOV:

Q. Tell me, witness, does not the first sentence of the document testify to the fact that those members of the SS whom you called honorary members were actually promoted by Himmler according to his estimation of their activity?

A. This document, in my opinion, proves something which I tried to describe yesterday. I said that it was typical of the honorary leaders that they did not actually come from the SS as such; that is to say, they had not performed any duty in the SS for a number of years like all the other men,

but at some stage, and quite suddenly, they were awarded a high rank and given SS uniforms, without in -

Q. No, witness, I am asking you something quite different. You are not answering my question. I asked you if it was not a fact that Himmler promoted the so-called honorary members according to his estimation of their activity? From the SS point of view, naturally.

A. Yes, that is correct, in so far as it was typical of Himmler's policy that personalities who were holding certain positions of power were granted the right, to wear the SS uniform, and those are the honorary leaders.

COLONEL SMIRNOV: I have no further questions to put to the witness, Mr. President.

DR. SEIDL (defence counsel for defendant Frank):

Mr. President, this morning the prosecution submitted a document, Exhibit GB 568, also numbered D-926. The subject of that document is documents from the files of the Bavarian Ministry of justice, which deal with the death of prisoners of war in the concentration camp at Dachau. I ask for permission to read now into the record No. 12 of that document, which was not read out by the prosecution.

As reason for my application, I should like to explain that this is the same document which I applied for six months ago and which could not be found.

The portions of this document read by the prosecution may create the impression that the statement by the defendant Frank in the witness-box with reference to this question may not be correct. Number 12, however, shows -

THE PRESIDENT: Are you applying on behalf of Frank?

DR. SEIDL: I make the application on behalf of the defendant Frank.

THE PRESIDENT: I think, on Page 10 of the English copy, and with the heading 12, the two top paragraphs were read this morning.

DR. SEIDL: Only the first two sentences of paragraph 2 were read. The remaining sentences were not read. Paragraph 3 was not read either.

THE PRESIDENT: Very well, Dr. Seidl, you may read what you want to read.

DR. SEIDL: I shall then quote under No. 12 a note for the files:
“Concerning Dachau concentration camp.

I. Memorandum.

The proposal of the State Minister of the Interior to quash the inquiry now pending at the public prosecution office at the Provincial Court, Munich II, into the deaths of the prisoners Handschuh, Frantz and Katz, who were in protective custody, was the subject of a discussion during the meeting of the Council of Ministers on 5th December, 1933. As a result, the State Minister of justice communicated the following to the undersigned officials:

The criminal proceedings regarding the happenings in the Dachau concentration camp are to be continued with all determination. The facts are to be cleared up with the utmost speed. If necessary, the provincial police are to be brought in to assist. Any attempts to hush up the case must be opposed by all available means.

The Oberstaatsanwalt (Public Prosecutor) at the Provincial Court, Munich II, was instructed, in accordance with the decision of the Council of Ministers, to continue the proceedings immediately with all energy, and to bring about the clearing up of the incidents as soon as possible. He will apply for preliminary Court investigations and see to their being completed rapidly - in the case of Frantz and Katz immediately, and in the case of Handschuh after the arrival of the documents from the Political Police, who have been requested to return them. He (the Public Prosecutor) has been instructed to keep the State Ministry of Justice informed about the course of the proceedings and to produce the files with an attached report about the result of the preliminary investigation once this is completed, stating also what further action is intended. The Public Prosecutor at the

Oberlandesgericht (Court of Appeal) in Munich has been notified and instructed that he also, for his part, is to pay particular attention to the proceedings. The preliminary investigations will probably be conducted by Landgerichtsrat (Provincial Court Counsellor) Kissner, competent for the district of Dachau.

The liaison officer with the Political Party, I. Staatsanwalt (First Public Prosecutor) Dr. Stepp, was instructed, according to orders, to communicate the decision of the Council of Ministers to the commanding officer of the Political Police, Himmler, and to the chief of the Bavarian Political Police.”

DR. SEIDL: Thank you, Mr. President.

BY DR. PELCKMANN (for the SS):

Witness, once again I shall come back to the document which has just been read out by my colleague Seidl. When this document was put to you, you pointed out that this was an instruction concerning an affair which took place very early in 1933. During your interrogation you, yourself, said that in the course of your investigation in later years you discovered that murders had been hushed up by means of false reports on the facts being sent in. For that reason I would like to ask you once more: Is it correct that you, in the course of your investigation in later years, and as soon as you discovered cases of concealment, fought against such procedure with all determination?

[Guenther Reinecke] A. That was precisely one of our main activities. We were fighting against those cases of hushing-up which cropped up in the course of proceedings which were being carried out. Repeatedly, in many different camps, we were able to ascertain by our commissions that such cases of concealment did exist, and in those cases we at once called the guilty party to account.

Q. And in your SS legal system, in 1933, could you fight against such type of crimes?

A. The legal system of the SS, that is to say a system of criminal justice, did not exist then. Responsibility for carrying out such criminal proceedings lay with the criminal prosecution department of the general legal system, and this becomes apparent from this document. It was their task to bring to judgement the guilty men responsible in such cases.

Q. A report, a document has been put before you, D-924, Exhibit GB 570, which refers to the horrible shooting of deportees, carried out by the escorting troops. You defined your attitude toward them. I noticed that you could not quite have completed your statement, because I believe that you wanted to say something more concerning your personal impressions. Would you like to do that now?

A. Yes. I wanted to say that here we are concerned with a convoy of prisoners and the accompanying troops; what I said about guards was only with reference to those guards in camps, that is to say those sentries who were posted on watchtowers, and others outside and around the camp carrying out guard duty, and who, after having completed their guard duty, returned to their billets; men, therefore, who had nothing to do with the internal arrangements of the camps. In case of doubt, such transports were carried out by members of the commandant's staff.

Q. From the document containing the statistics regarding the strength of the SS on the 30th of June, 1934, and I regret that the document number is not visible on my copy, I should like to put to you the figure of 794,000 members of the SS. Witness Brill told us yesterday of higher figures, approximately 900,000 to a million in 1944. Since witness Brill is no longer present, I should like to ask you, if you are sufficiently informed, whether the difference may be attributed to the fact that the figure mentioned by witness Brill also included the dead, those who had been killed, and therefore the figure given by witness Brill was not an incorrect statement on his part.

A. I have the knowledge necessary to answer the question because, working in the legal system, I constantly had to have information concerning the strength of the SS. I know that the statement by witness Brill corresponds to the facts. It is a fact, as stated by defence counsel, that the figure given by witness Brill includes the losses suffered by the Waffen SS. The figures contained in this document must be increased by the number of killed in the course of the war, both of men and leaders either low-ranking or senior, of the Waffen SS, in order to draw your conclusions regarding the real strength of the Waffen SS.

Q. On Page 28 of the same document you have the numbers in the various offices. The final total is 39,415 members of the SS. Do you still have the document before you, witness?

A. No, unfortunately, I have not.

(The document was handed to the witness.)

Q. You said that the figure representing the SS Economic and Administrative Department, which was responsible for the administration of the entire concentration camp system, was 24,051 persons. Does this mean persons who were carrying out purely clerical work? Were there in fact 24,051 clerical workers in that department? Or what does that figure mean?

A. The SS Economic and Administrative Department was a much inflated organization which particularly, as its name indicates, had at its disposal a large) organization of firms and industries. All the members of such industries were formally attached to the Administrative Economic Department, and in order to classify them "uk," that means to relieve them from compulsory service in the armed forces, they were, as a matter of form, assigned to the Waffen SS.

Q. As I understood you earlier, you also said that the guards should be counted into that figure?

A. I had not finished my answer to that question. The guards in the concentration camps and the entire personnel in concentration camps were

also counted in the Economic and Administrative Department, division "D," as concerns personnel and organization, and thus they were exclusively under the jurisdiction of Pohl as the Chief of the Administrative and Economic Department. I assume that the figure of those guards is included in the figure of 24,051.

Q. Please would you look at the figure of 987 of the SS attached to the "Reich Commissioner for the Strengthening of German Nationalism," or "Consolidation of German Folkdom," Central Department for Racial Germans. That is merely an example, but were these 987 men the only employees of that department?

A. I know from my own experience as SS judge that the department called "Reich Commissioner for the Strengthening of German Nationalism" or "Consolidation of German Folkdom" had at its disposal thousands of people who, as I said yesterday, were civil servants and were in no way connected with the SS. That figure of 987 members of the SS can be explained just as all the other figures can be explained. They became members of the SS for the same reason, that of being unfit for active service, and they had to be assigned to an armed unit performing military duties in order not to be called up. Those persons had no real connection with the SS organization in any case, but it was merely the technical reasons which I have described which led to their being taken over by the SS.

Q. Well, then, these statistics which are before us show approximately 800,000 members of the SS. Is it correct, witness, that as against that the statistics show that the concentration camp system employed only about 25,000 members of the SS?

A. In June, 1944, which is the date of this document, that is the correct proportion of men employed in concentration camps in comparison to the total strength of the SS which is clearly evident from this document.

DR. PELCKMANN: May I now submit to your Lordship the document which I unfortunately did not have at my disposal this morning.

BY DR. PELCKMANN:

Q. Witness, I will show it to you. Would you mind having a look at it? You know this document?

A. Yes, that document became known to me during the last twelve months.

Q. On Page 46 of that document there appears the testimony of a detainee who is referred to by the initials "E. H." It gives the impression that the testimony was given before American interrogating authorities and it reveals -

THE PRESIDENT (Interposing): Is this document in evidence?

DR. PELCKMANN: Your Lordship, it is not in my document book. I am merely putting it to the witness, but as your Lordship desired to see the book, I submitted it to the Tribunal.

THE PRESIDENT: Yes, but - Well, what is the book? I do not know what it is. What is it? Where does it come from?

DR. PELCKMANN: I beg to be permitted to ask the witness just one question with reference to this.

THE PRESIDENT: No, no, you may not do that until you have told me where the book comes from. Where does the book come from?

DR. PELCKMANN: It comes from the library here. I just got it from the library. It is an official publication -

THE PRESIDENT: I see.

DR. PELCKMANN: - of a Colonel Quinn. On Page 46 there is the testimony of this detainee, and it would give the impression that that testimony had been given before interrogating authorities of the American Army.

BY DR. PELCKMANN:

Q. Can you say anything with reference to that testimony, which describes atrocious conditions and crimes?

A. Yes, I can give you information on that subject. This testimony is -

THE PRESIDENT: But, Dr. Pelckmann, the document is not yet in evidence, unless you offer it. Now, if you offer it, it is different. But you are carefully trying to contradict it. What is the good of contradicting a document which is not in evidence? We have never seen it.

DR. PELCKMANN: If your Lordship would hear the witness, then you would discover that I am not trying to contradict the document.

THE PRESIDENT: Do you want to offer the document in evidence then?

DR. PELCKMANN: First of all, I should like to put it to the witness and then if I get your permission I should very much like to offer it in evidence.

THE PRESIDENT: Well, then, you offer it in evidence and you are relying upon the document, are you? Are you relying upon it or are you not?

DR. PELCKMANN: As far as I can quote from Page 46, yes.

THE PRESIDENT: If you want to put it in for the purpose of relying on Page 46, you can do that.

DR. PELCKMANN: And the following - the following pages - the entire testimony signed "E. H."

THE PRESIDENT: Go on.

BY DR. PELCKMANN:

Q. Witness, you understood my question?

A. Yes.

Q. Please will you answer it?

A. This testimony by "E. H." is the testimony of a female detainee, Eleanora Hodis from Auschwitz, and was made in the late autumn of 1944, under oath, before an SS judge. An investigating commission of the SS Judicial Department had instituted proceedings against Grabner, head of the Political Department at Auschwitz, and various other participants, for the

murder of detainees, and these people were indicted for murder in 2,000 cases.

As always, considerable difficulties were put in the way of clearing up the situation. The female detainee, Eleanora Hodis, declared herself willing to assist; the investigating commission of the SS Court with her testimony, provided judges would guarantee her life. That guarantee was given, and it was possible to get Hodis out of Auschwitz and transfer her to Munich. In Munich, at the date indicated, she gave her testimony, with those gruesome details which were to form the basis of proceedings instituted against Hoess and many other people. However, because of the collapse (of Germany) the proceedings could not be carried through.

Q. Is it correct, therefore, witness, that the conditions which are described here existed in the concentration camp of Dachau as it would appear -

A. No.

Q. - by being included in this book, because, after all, this book deals with the concentration camp of Dachau?

A. No, that is not correct. The testimony given by the witness Hodis refers exclusively to the atrocious and gruesome conditions at Auschwitz, and has nothing whatever to do with the camp of Dachau.

DR. PELCKMANN: Finally, your Lordship, I merely beg to be allowed to refer to Document D-959 which has been submitted by the British Delegation.

When discussing the question -

THE PRESIDENT: Give that document you just put in some number.

DR. PELCKMANN: The document "SS Dachau" -

THE PRESIDENT: You can give it a number afterwards. Do not delay now.

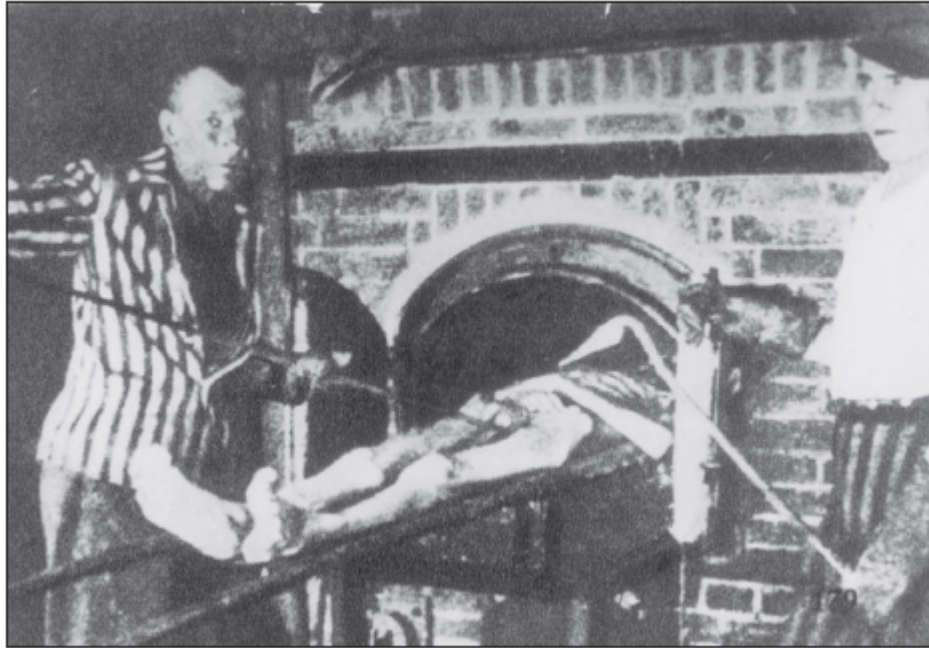
DR. PELCKMANN: I will merely look up the number of documents I have submitted up to now and then I will give them numbers.

When the prosecution defined their attitude regarding the admissibility of that document, they said that it was regretted that the document could be submitted only so very late. In other words, as we all know, it ought to have been submitted during the presentation of evidence. At this stage, with reference to the hundreds of statements regarding the activity of the Waffen SS in Czechoslovakia, I cannot now define my attitude, and I, too, regret that the document arrived so very late. However, as it has now been admitted and as the Tribunal is taking judicial notice of it, I think I ought to have the possibility of referring to the details which are brought up in support of the case for the prosecution - its value cannot be assessed otherwise - so as to have the opportunity to define my attitude. For that purpose I should like to have a certain amount of time.

THE PRESIDENT: Dr. Pelckmann, the Tribunal thinks that you must go on with your case and that you cannot be given further time. The Tribunal has said that they are bound to take judicial notice of the document under Article 21, and this witness has told us he had never heard of the incidents - two incidents, I think - to which counsel drew his attention.

DR. PELCKMANN: I am afraid I did not understand the translation of the last part of what you said, Mr. President.

THE PRESIDENT: I said that you must go on with your case and that the Tribunal had admitted that document under Article 21, and that with reference to the two incidents to which counsel for the prosecution referred, this witness has said that he has never heard of them.



The crematorium in operation at Dachau concentration camp.

DR. PELCKMANN: I have no further questions to this witness.

DR. GAWLIK (counsel for the SD): With reference to the Document D-960, submitted during cross-examination, I have a few questions to put to the witness.

THE PRESIDENT: Which document? Which document?

DR. GAWLIK: D-960, Exhibit No. 569.

BY DR. GAWLIK:

Q. Witness, I shall once again have the document shown to you.

(Witness was handed document.)

Was the SD responsible for dealing with this letter?

[Guenther Reinecke] A. That question must be answered with no. It is apparent from its heading that the letter is addressed to the Security Police and SD at Strasbourg. As to the SD, that is a misleading description, as it is merely a usual form of speech which has no connection with the organization of the SD, and it results from the chief of the RSHA calling himself "Chief of Security Police and the SD."

DR. GAWLIK: I have no further questions.

BY THE TRIBUNAL (Mr. Biddle):

Q. Witness, I want to ask you a few questions about the investigation of the camps. You said your investigation began in 1943. What time in the year 1943 did your investigation begin of the concentration camps?

A. Your Lordship, that was during the second half of 1943, as far as I can recollect, either in June or July.

Q. It lasted for a little under two years until the end of the war, I suppose.

A. Yes.

Q. How many camps did you investigate?

A. It began in Buchenwald camp and thereafter investigating commissions were sent to every camp which had attracted suspicion.

Q. Witness, listen very carefully and answer the questions. All I asked you was how many camps did you investigate?

A. The total investigations were carried out in seven to ten camps, but I cannot give you the exact figure at the moment. It varied from one time to another.

Q. You mean seven to ten in all, altogether seven to ten?

A. Yes, that is what I meant.

Q. Did that include labour training camps also?

A. By the seven to ten camps I mean the “Stammlager” (parent camps), that is the concentration camps themselves, and from there the investigation spread from the parent camp where the commission was stationed to the labour camp.

Q. And that included Auschwitz and Dachau?

A. In both these concentration camps there were investigation commissions.

Q. And Treblinka?

A. Not in Treblinka, your Lordship.

Q. Did you investigate any camps outside Germany?

A. Yes, for instance, we had a commission in the concentration camp of Herzogenbosch in Holland and there proceedings were instituted against a camp commandant, which ended in a long term of imprisonment.

Q. How many investigators were you using at any one time?

A. The total of investigating officials may have varied from thirty to fifty people, the majority of whom were not taken from the legal system but were experts from the RSHA and from the Criminal Police Department.

Q. Now, how many cases did you recommend for court action?

A. Proceedings which ended with a sentence amounted to two hundred up to the end of the war, that is to say, two hundred sentences were passed which were actually carried out.

Q. Again I did not ask you that, witness; I said, how many cases did you recommend for action. You made recommendations, did you not?

A. Altogether 800 cases, 800 proceedings were brought about through the investigations.

Q. Where did you send your reports? Did you send them directly to the Courts?

A. When the investigation was completed and when the case was ready for prosecution, the reports from the investigating commissions went, together with the judge's order to prosecute, to the Court itself, which would then hold the actual trial and pronounce sentence.

Q. And where did copies of the reports go? Did a copy go to the Minister of the Interior?

A. No, that I consider out of the question.

Q. You mean the Minister of the Interior was not concerned with any of this?

A. We are here concerned with criminal proceedings against members of the SS which, therefore, came under the penal jurisdiction of the SS and, as far as that is concerned, the Ministry of the Interior was not involved.

Q. You mean you were only investigating cases that involved the SS?

A. All cases were investigated which concerned the camps and these cases referred to SS members and also police members, that is to say, members of the Security Police, and they, for the purpose of being tried, were brought before the Courts.

Q. Well, now, you have not told us what conditions you found in the camps. You said they were very bad. What were they; what was going on in the camps?

A. We discovered through our investigations that in the camps there was to some extent a regular system of killing.

Q. And as a result of discovering that there was a regular system of killing, you thought there must be an order to that effect, although you

never found it, is that right?

A. Yes, your Lordship. The fact that an order from above was in existence became known to us at the end of 1944.

Q. Now, why did you think that there was a regular system of killing? Was it because there were so many killings?

A. For the reason that there were so many cases, and also because it was possible to detect a system of co-operation of the concentration camp commandants.

Q. That is right. And how many of those seven to ten camps, how many commandants were involved in these killings?

A. In practice the situation was such that practically every commandant was brought under investigation, and criminal proceedings were taken against a total of five commandants.

Q. Five, five out of how many?

A. Altogether there were twelve commandants of concentration camps because there were twelve large concentration camps, the so-called "Stamm" (parent) concentration camps.

Q. So out of twelve investigated you started proceedings against five, is that right?

A. Yes, that is so.

Q. Now, you said you thought that the killings must be on a large scale. Did you find any evidence of any of the gas chambers which added to your belief that it might be a large-scale operation? You found some evidence of gas chambers?

A. The first case in which a gas chamber appeared was the case of Auschwitz. That is the case, your Lordship, that I have just mentioned here, with reference to the detainee Eleanora Hodis.

Q. When was it that you got a report that a gas chamber was being used in Auschwitz? When?

A. That was at the end of October or the beginning of November, 1944.

Q. Did you get figures of the numbers of persons who had died in these concentration camps? Did you find out how many persons had died in the different camps? Did you get statistics?

A. No, your Lordship, about that we received no information. We had to collect and look for all the material ourselves, but we had no survey.

BY THE PRESIDENT:

Q. Can you remember the names of the five whom you prosecuted, the five commandants?

A. They were the commandant of Buchenwald, Koch; the commandant at Lublin, whose name I cannot remember at the moment, and the commandant of the Herzogenbosch camp, whose name I have just remembered, a certain Gruenwald.

Further investigations were carried out against the commandant of Oranienburg, Loritz, and also against Keindel, the later commandant. The proceedings against him were discontinued, however, because proof was furnished that at the time when Keindel was camp commandant no killings had occurred.

Q. Did you prosecute Hoess? H-o-e-s-s?

A. At the end of 1944 we started proceedings against Hoess, based on the testimony of the detainee in protective custody who has just been mentioned.

Q. What crime did you charge Hoess with?

A. May I please make this matter clear? Proceedings against Hoess had not advanced sufficiently to serve an indictment against him. It was still in the process of preliminary investigation. Material had to be collected first.

Q. Well, you must have arrived at some decision about Hoess, surely. You must have known what crimes you were investigating. What were the crimes you were investigating against Hoess?

A. In the case of Hoess the crime of murder of unknown persons and unknown numbers of persons detained in the concentration camp at

Auschwitz.

Q. Did you say that you never heard of the facts which were stated in Document EC-168, the document in which Himmler said that the number of deaths in the concentration camps must be reduced?

A. I had never seen that document before. The first time that I saw it was when it was submitted by defence counsel here, but in the course of investigations, my judges had confirmed to me that instructions of that type had passed through the camps and were actually observed.

Q. The document, you remember, said that out of 136,000 persons in concentration camps, 70,000 had died.

A. I do not know at the moment which document you are referring to.

Q. EC-168 is the document, and I wanted to know whether in the course of your investigations you found, you ascertained those facts, namely that 70,000 out of 136,000 had died?

A. No, such facts were not ascertained.

DR. PELCKMANN: I have no question, your Lordship, but I should like to be permitted to make a suggestion.

This witness until the end of the war was only the deputy chief of the head office of the SS judicial department. The chief was a certain Herr Breithaupt who has since died. In the first place, the heads of the commissions reported to this departmental chief, and the SS judges who carried out the investigations in the camps are still alive, and the answer to all these questions which your Lordship and Mr. Biddle have put can be given in detail by the witness Morgen.

If I may be permitted another suggestion -

THE PRESIDENT: But you have got some more witnesses to call, have you not? You have some more witnesses to call, have you not?

DR. PELCKMANN: During the entire trial I have attempted to make the witness Hinderfeld as superfluous as possible. I have succeeded in

putting the questions intended for witness Hinderfeld to the other witnesses I have called. If the Tribunal -

THE PRESIDENT: Well, Dr. Pelckmann. I do not understand what the object of this speech is.

The witness has been examined, cross-examined and re-examined, and examined, by the Tribunal. Now he can retire and you can go on with your case.

DR. PELCKMANN: He can retire?

THE PRESIDENT: Yes, the witness can retire and the Tribunal will adjourn.

(A recess was taken.)

THE PRESIDENT: Dr. Pelckmann, I am told that I may have misunderstood what you were saying to me just before the Tribunal adjourned and that you were; asking whether you might be allowed to call some other witness in place of one of the witnesses you had already applied for. Is that so?

DR. PELCKMANN: Yes.

THE PRESIDENT: Well, whom is it you want to call?

DR. PELCKMANN: Since I know the wish of the Tribunal to shorten the proceedings, I had endeavoured to ask the other witnesses the questions which I had intended for the fifth witness. I believe I succeeded in this, but from the interest that the Tribunal took in the question of the investigation of concentration camps, I saw that it might be very expedient, and I must say that it would be in the interest of the defence, if the judge, Dr. Morgen, mentioned by the witness Reinecke, might be examined briefly on these matters. I would be in a position to examine this witness immediately, and would no longer require the witness Hinderfeld, who was to be examined.

THE PRESIDENT: You want to examine Dr. Morgen and to give up one of the other witnesses, is that right?



Red Army soldiers examining the ovens at Majdanek, following the camp's liberation, summer 1944.

DR. PELCKMANN: Yes.

THE PRESIDENT: Yes. Very well, the Tribunal - he has been called before the Commission, I suppose, has he not?

DR. PELCKMANN: No, your Lordship. There are affidavits from him. May I explain briefly why I could not examine him before the Commission? On the first of July the witness arrived here in Nuremberg after I had searched for him for a long time. Up to that time the witness was in Dachau without my being able to find out about it. On the 1st of July I was very busy with the last examinations before the Commission; for example, the witness Eberstein, and the witness Reinecke I examined only on the 5th and 6th of July before the Commission, so that I could not prepare the testimony of this witness. As a result, I was only able, after the end of the activity of the Commission, to prepare affidavits with him. These are, I believe, Affidavits 65 and 67, but these affidavits do not show matters as clearly as if I were to examine him now, your Lordship, and I respectfully submit that perhaps not I but the Tribunal might examine him if the rules allow this.

THE PRESIDENT: Who is the witness you are intending to dispense with?

DR. PELCKMANN: Hinderfeld.

THE PRESIDENT: Mr. Elwyn Jones, what view do the prosecution take of this application?

MR. ELWYN JONES: I suggest, my Lord, that it is - that it might be possible for a fuller affidavit to be taken by this witness and that might possibly meet the case. But in view of the fact that the defence are abandoning one witness, I would not press that view, but I do respectfully suggest that, in view of the time that has been taken on this organization, an affidavit might be appropriate, particularly as Dr. Pelckmann is dealing with matters - dealing with that part of the case in which the Tribunal is especially interested.

THE PRESIDENT: What do you say to that Dr. Pelckmann? Could you not put the same questions to this witness, and could he not incorporate into his affidavit the point you want him to? He has already had three affidavits.

DR. PELCKMANN: Certainly, your Lordship. I will only state the following. The prosecution called a witness, Sievers, in order further to support their position, and I think that if I want to support the testimony of the witness Reinecke by calling another witness here, that might be more or less on the same basis, and by the testimony of a witness, the matters of the concentration camps, the secret sphere of the concentration camp organization and the introduction of the legal system into it might be cleared up more thoroughly for the Tribunal than by an affidavit.

THE PRESIDENT: Is this witness of yours, is he here?

DR. PELCKMANN: He is in the witness building.

THE PRESIDENT: Were you proposing to call him next?

DR. PELCKMANN: I would do it. If the prosecution wish to call their two; witnesses first, I could wait, your Lordship.

THE PRESIDENT: Dr. Pelckmann, have you any idea as to how long you will be with this witness if you do call him?

DR. PELCKMANN: Forty-five minutes to an hour.

THE PRESIDENT: Well, then, if you wish it, and you dispense, with calling the witness Dr. Hindenberg or whatever is his name, you may call Dr. Morgen.

DR. PELCKMANN: Thank you, your Lordship. I call the witness Dr. Morgen.

MR. ELWYN JONES: If your Lordship pleases, the witness is, of course, in the prison at the moment, and it might therefore be convenient to call the witness for whom Dr. Pelckmann has asked for cross-examination, who is available immediately, and no doubt the Marshal can make the necessary arrangements for the other one.

THE PRESIDENT: Dr. Sievers, is it not?

MR. ELWYN JONES: No, my Lord, there is a short one first, the witness Israel Eisenberg, whose affidavit is Document D-939, Exhibit GB 563.

THE PRESIDENT: Eisberg?

MR. ELWYN JONES: Your Lordship, it is Eisenberg.

THE PRESIDENT: Yes. Marshal, will you bring in Eisenberg and send for Morgen.

Will you state your full name, please.

THE WITNESS: Israel Eisenberg.

THE PRESIDENT: Will you repeat this oath after me?

I swear by God, the Almighty and Omniscient, that I will speak the pure truth, and will withhold and add nothing.

(The witness repeated the oath.)

THE PRESIDENT: You may sit down.

DIRECT EXAMINATION BY MR. ELWYN JONES:

Q. Witness - I just want to put the statement to the witness, my Lord - witness, are you Israel Eisenberg, of 203 Reinsburgstrasse, Stuttgart?

A. Yes.

Q. Will you look at the Affidavit D-939, Exhibit GB 563. Just look at it. Is that your statement?

A. Yes, I signed it.

Q. And is it true?

A. Yes, it is.

Q. Witness, I notice you have a scar on your face. Will you tell the Tribunal how it was caused?

A. Yes, I can tell the Tribunal. In October, 1942, at the end of October, 1942, I was shot in Maidanek camp together with many other Jews. The bullet hit my left cheek and I lay there from 9.30 p.m. until 4.30 in the

morning. When people were removing the corpses, I was taken away with another man whose name was Stagel; we were the only survivors.

Q. And how many were killed on that occasion?

A. At 9.30 in the evening, groups composed of about 1,000 or more people were conducted to a field. I was among them. Then they fired at us and remained lying in the field until 4.30 in the morning.

Q. Now, just answer this last question, who were the killers?

A. They were SS men in SS uniforms.

MR. ELWYN JONES: I have no further questions, my Lord.

CROSS-EXAMINATION BY DR. PELCKMANN:

Q. Witness, I know your affidavit. As far as I can see from it, you were in Lublin, at first in Lublin. Were there SS men there, too, whom you got to know?

A. Yes, I knew many of them. I was working in the SS staff offices as an electrician and I came there very frequently in order to make electrical installations.

Q. In your affidavit you have given some names - Reidel, Mohrwinkel and Schramm.

A. Yes, I knew them personally.

Q. They were on this staff?

A. Yes, they were on the staff and its office was located at Warsaw Street, 21.

Q. Do you also know exactly the ranks which you mentioned in your affidavit as being held by these persons?

A. Yes, I know them.

Q. What, for example, was Riedel?

A. Riedel was an Unterscharfuehrer.

Q. And Mohrwinkel?

A. At first he was a Rottenfuehrer and then, as a result of this action, he was promoted to Untersturmfuehrer.

Q. You just said that Riedel was an Unterscharfuehrer. In your affidavit you said he was an Oberscharfuehrer.

A. He had a white braid on his shoulder-straps.

Q. Now, I show you a picture. Please tell me whether that is Riedel or Mohrwinkel, and what is the rank of this SS man:

A. This man is neither Mohrwinkel nor Riedel.

Q. And what is his rank?

A. It seems to me that he is a Rottenfuehrer because there is. nothing on his shoulder-straps, and only a badge on his sleeve.

Q. Thank you. Now, I shall show you another picture. If I remember the first picture correctly, this would also have to be a Rottenfuehrer?

A. I cannot tell with certainty, but the other one had on his shoulder-straps a white stripe all round and here I see two white stripes.

Q. Thank you, witness.

THE PRESIDENT: Is that all you wanted?

DR. PELCKMANN: I have no more questions, your Lordship.

THE PRESIDENT: The witness can retire.

DR. PELCKMANN: For the information of the Tribunal, I should like to say that these photographs came from the book, in Polish, on the Warsaw atrocities, submitted by the prosecution yesterday, and the photographs do not show men of the Waffen SS at all, but policemen. The witness did not notice that.

THE PRESIDENT: Well, the witness said he had never seen them before. The witness said he had never seen the man before. We do not need to argue about it. Now, who is your next witness?

DR. PELCKMANN: May I submit these pictures to the Tribunal or are they known? They are in the Polish book, in Polish, on pages VIII, - no, IX and XI. It is merely a question of uniform, Mr. President.

THE PRESIDENT: You can certainly put them in if you think it worth while; but, now, will you get on with your case. Is there another witness that

you are going to call before Dr. Morgen?

DR. PELCKMANN: Yes; I believe the witness Sievers was called by the prosecution, your Lordship.

THE PRESIDENT: Well, is he here?

THE MARSHAL: Yes, Mr. President.

THE PRESIDENT: Well, call him, then.

THE MARSHAL: Both witnesses are here now, your Honour, both Sievers and Morgen.

THE PRESIDENT: We will go on with Sievers now.

MR. ELWYN JONES: Perhaps, my Lord - you did indicate, my Lord, it might be more convenient for Dr. Pelckmann to finish with his witness before Dr. Sievers.

THE PRESIDENT: Very well, I do not mind. Call Dr. Morgen then.

(GEORG KONRAD MORGEN, a witness, took the stand and testified as follows):

BY THE PRESIDENT:

Q. Will you state your full name, please?

A. Georg Konrad Morgen.

Q. Will you repeat this oath after me:

I swear by God, the Almighty and Omniscient, that I will speak the pure truth and will withhold and add nothing.

(The witness repeated the oath.)

THE PRESIDENT: You may sit down.

DIRECT EXAMINATION BY DR. PELCKMANN:

Q. Witness, because of the significance of your testimony, I will first ask you in detail about yourself. Were you an SS judge of the Reserve?

A. Yes.

Q. Please speak slowly and wait a little after every question.

What training did you have?

A. I studied law at the Universities of Frankfurt on the Main, Rome, Berlin f at the “Academie de Droit International” at the Hague and the “Institute for World Economy and Ocean Traffic” in Kiel. I passed the first, the senior law examination. Before the war I was a judge at the Landgericht in Stettin.

Q. Were you a specialist in criminology and in criminal law?

A. No, I had specialized in International Law, but later, during the war, when I had to deal with criminal matters and penal law, I did special work in that field.

Q. How did you come to the SS?

A. I was drafted compulsorily into the General SS. In 1933, I belonged to the Reich Board for Youth Training, whose group of students was taken over as a body. I was drafted at the beginning of the war into the Waffen SS.

Q. What rank did you have there?

A. In the General SS I was Staffelanwarter and SS Rottenfuehrer. In the Waffen SS I was latterly Sturmbannfuehrer of the Reserve.

Q. What example can you give that you did not believe you were joining conspiracy when you joined the SS. Very briefly, please.

A. In 1936 I published a book on War Propaganda and the Prevention of War. This book, at a time when war was threatening, showed ways and means to prevent war and the incitement of nation against nation. The book was examined by the Party and published. Therefore, I could not suppose that the SS and the policy of, the Reich Government were directed towards war.

Q. How did you come to the investigations in the concentration camps?

A. At the order of the Reichsfuehrer SS, because of my special abilities in criminology, I was detailed by the SS Judicial Department to the Reich Criminal Police Office in Berlin, which was equivalent to a transfer. Shortly after I arrived there, I was given an assignment to investigate a case of corruption in Weimar. The accused was a member of the concentration

camp of Weimar-Buchenwald. The investigations soon led to the person of the former commandant, Koch, and many of his subordinates, and in addition affected a number of other concentration camps. As those investigations became more extensive, I received full authority from the Reichsfuehrer SS to engage generally in such investigations in concentration camps.

Q. Why was a special power of attorney from the Reichsfuehrer necessary?

A. For the guards of the concentration camps, the SS and Police Courts were competent; that is, in each case the local Court in whose district the concentration camp was located. For that reason, because of the limited jurisdiction of its judge, the Court was not able to act outside its own district. In these investigations and their extensive ramifications it was important to be able to work in various districts. In addition, it was necessary to use specialists in criminal investigation, in other words, the criminal police. The criminal police, however, could not carry on any investigation directly among the troops, and only by combining juridical and criminal police activities was it possible to clear this up, and for this purpose I was given this special power of attorney by the Reichsfuehrer.

Q. Now, how extensive did these investigations become? You can be brief because the witness Reinecke answered this point in part.

A. I investigated Weimar-Buchenwald, Lublin, Auschwitz, Sachsenhausen, Oranienburg, Herzogenbosch, Cracow, Plaschow, Warsaw, and the concentration camp at Dachau. And others were investigated after my time.

Q. How many cases did you investigate? How many sentences were passed? How many death sentences?

A. I investigated about 800 cases, or rather, about 800 documents, and one document would affect several cases. About 200 were tried during my

activity. Five concentration camp commandants were arrested by me personally. Two were shot after being tried.

Q. You caused them to be shot?

A. Yes. Apart from the commandants, there were numerous other death sentences against Fuehrers and Unterfuehrers.

Q. Did you have any opportunity of visiting and seeing for yourself the conditions inside concentration camps?

A. Yes, because I had authority to visit concentration camps myself. Only a very few persons had this permission. Before beginning an investigation, I examined the concentration camp in question in all its details, seeing especially those arrangements which seemed particularly important to me. I visited them repeatedly and thoroughly. I paid surprise visits. I was working mostly in Buchenwald itself for eight months. I lived there. I was in Dachau for one or two months.

Q. As so many visitors to concentration camps say they were deceived, do you consider it possible that you, too, were a victim of such deception?

A. As I have already pointed out, I was not a mere visitor to a concentration camp. I had settled down there for a long residence, I might almost say I established myself there. It is really impossible to be deceived for such a long time. In addition, the commissions from the Reich Department of Criminal Police worked under my instructions, and I placed them directly in the concentration camps themselves. I do not mean to say that, in spite of these very intensive efforts, I was able to learn of all the crimes, but I believe that there was no deception in regard to what I did learn.

Q. Did you gain the impression, and at what time, that the concentration camps were places for the extermination of human beings?

A. I did not gain this impression. A concentration camp is not a place for the extermination of human beings. I must say that my first visit to a concentration camp, namely Weimar-Buchenwald, was a great surprise to

me. The camp was on wooded heights, with a wonderful view. The installations were clean and freshly painted. There were grass and flowers. The prisoners were healthy, normally fed, sun-tanned, working -

THE PRESIDENT: When are you speaking of? When are you speaking of?

A. I am speaking of the beginning of my investigations in July, 1943.

Q. What crimes - you may continue - please, be more brief.

A. The installations of the camp were in good order, especially the hospital. The camp authorities, under the Commandant Diester, aimed at providing the prisoners with an existence worthy of human beings. They had regular mail service. They had a large camp library, even with foreign books. They had variety shows, motion pictures, sporting events. They even had a brothel. Nearly all the other concentration camps were similar to Buchenwald.

THE PRESIDENT: What was it they even had?

A. A brothel.

Q. What crimes did you learn about?

A. As I said before, the investigations were based on a suspicion of corrupt practices. In time, however, I was obliged to come to the conclusion that besides those crimes, killings had also occurred.

Q. How did you reach the suspicion that killings had occurred?

A. I learned that the starting-point was the assignment of Jews to the camps after "Action 38." I had to learn all possible facts about this action, and in doing so I was obliged to notice that the majority of prisoners of whom it could be assumed that they might know something about these cases, had died. This peculiar frequency of killings was noticeable - I noticed it - because other prisoners who were not in any key positions remained in Buchenwald for years in the best of health, and were still there, so that it was rather remarkable that it was just certain prisoners who could have been witnesses who had died. I thereupon examined the files

concerning these deceased prisoners. The files themselves did not then give cause to suspect illegal killings. The dates of the deaths were years apart, and the different causes of death were always given. But I noticed that the majority of these deceased prisoners, shortly before their death, had been put into the camp hospital or were in the detention quarters. This first aroused my suspicion that in these two places murders of prisoners might possibly have occurred. Thereupon I appointed a special official, whose sole task was to investigate the suspicious circumstances, and rumours which were circulating in the detention quarters, the so-called "Bunker," regarding the killing of prisoners. He was a very zealous and able criminal official, but he had to report again and again that he had not found the least confirmation of this suspicion of mine. After two weeks of completely unsuccessful activity, the criminal official refused to continue his task and asked me ironically whether I myself believed that such, rumours of illegal killing of prisoners could be true. Only by accident, much later, was I put on the trail. I noticed that in the case of certain prisoners, in the books of the Kommandantur prison, and in the hospital books, they had been recorded in both books at the same time. In the prison book, for example, it said, "Date of release, 9th May, 12 o'clock." In the hospital register, "Patient died 9th May, 9.15 a.m." I said to myself, this prisoner cannot be in the Kommandantur Prison and at the same time a patient in the hospital. False entries must have been made here. I therefore concentrated my efforts on this and I succeeded in finding out about this system, for it was a system under Kommandant Koch.

The prisoners were taken to a secret place and were killed there, mostly in a cell of the Kommandantur prison, and sick reports and death certificates were prepared for the files. They were made out so cleverly that any unsuspecting reader of the documents would get the impression that the prisoner concerned had actually been treated and had died of the serious illness which was indicated.

Q. Then what did you do after learning of these facts?

A. I found out that the medical officer at Buchenwald, SS Hauptsturmfuehrer Dr. Hoven, was principally responsible and I had him arrested. I informed my investigating commission of these cunning forgeries and directed their particular attention to investigate systematically the concentration camps which we visited and to ascertain whether such murders had also been committed in other concentration camps. We satisfied ourselves at the time of the investigation, and I am speaking of the second half of 1942, that in the concentration camps at Sachsenhausen and Dachau no such killings occurred, as far as it was humanly possible to judge. In the other concentration camps, however, such cases were found. The persons believed to be guilty were accused, arrested and charged.

Q. Why was this not done earlier?

A. I have already said that these deceptive measures were so cunningly contrived that it was not possible to discover them earlier. Above all, there, was no possibility of clearing up the matter, besides these things were always done without witnesses. These cases had to be investigated by the SS Courts and they were investigated, for every unnatural death of a prisoner was reported by teletype to the central agency. In addition, the specially sworn-in Court officer who was in the camp had to go immediately to the place of the occurrences to question the witnesses; sketches and photographs had to be made of the scene and it was a regulation that an autopsy had to take place in every such case of unnatural death. Those reports of unnatural deaths, or of deaths suspected of being unnatural, were sent regularly to the SS and Police Court; but as I have already said, these reports were so cunningly contrived and the files were in such good order that even an expert could not have suspected an illegal killing. Of course, frequently proceedings were taken against members of the concentration camp, some followed by sentences, even death sentences. But these deaths appeared to occur at quite a normal rate.

If nothing at all had been reported to the SS Courts from the concentration camps, it would of course have seemed suspicious, just as it would also have been suspicious if too many such reports had been made to us. But it was a normal average and one could have no suspicion that the concentration camps were a hotbed of such dangerous crimes. It was through my investigation, which as I said was caused by accident, that we received our first insight into the true state of affairs.

Q. How did you come on to the track of mass killings? You have just spoken of individual killings.

A. I found traces of mass killings also by accident. At the end of 1943, I discovered two trails at the same time, one leading to Lublin and the other to Auschwitz.

Q. Please describe the Lublin trail first.

A. One day I received a report from the Commandant of the Security Police in Lublin. He reported that in a Jewish labour camp in his district a Jewish wedding had taken place. There had been 1,100 invited guests at this wedding.

As I said, 1,100 guests participated in this Jewish wedding. What followed was described as quite extraordinary owing to the gluttonous consumption of food and alcoholic drinks. With these Jews were members of the camp guard, that is to say some SS men or other, who took part in this function. This report only came into my hands in a roundabout way, some months later, as the Commandant of the Security Police suspected that the circumstances indicated that some criminal acts had occurred. This was my impression as well, and I thought that this report would give me an indication of another big case of criminal corruption. With this intention, I went to Lublin and I went to the Security Police there, but all they would tell me was that the events were supposed to have happened at a camp of the “Deutsche Ausrüstungswerke.” But nothing was known there. I was told it might possibly be a rather peculiar and “opaque” (this was the actual term

used) camp in the vicinity of Lublin. I found out the camp and the commandant, who was Kriminalkommissar Wirth.

I asked Wirth whether this report was true and what it meant. To my great astonishment, Wirth admitted it. I asked him why he permitted members of his command to do such things and Wirth then revealed to me that on the Fuehrer's order he had to carry out the extermination of Jews.

Q. Please go on, witness, with what you did.

A. I asked Wirth what this had to do with the Jewish wedding. Then, Wirth described the method by which he carried out the extermination of Jews and he said something like this: "One has to fight the Jews with their own weapons, and one has to cheat them."

Wirth built up an enormous deceptive manoeuvre. He first selected Jews who would, he thought, serve as column leaders, then these Jews brought along other Jews, who worked under them. With those smaller or mediumsized detachments of Jews, he began to build up the extermination camps. He extended this staff, and with them, Wirth himself carried out the extermination.

Wirth said that he had four extermination camps, and that about 5,000 Jews were working at the extermination of Jews and the seizure of Jewish property. In order to win Jews for this business of extermination and plundering of their brethren of race and creed, Wirth gave them every freedom and, so to speak, gave them a financial interest in the spoliation of the dead victims. As a result of this attitude, this extraordinary Jewish wedding had come about.

Then I asked Wirth how he killed Jews with these Jewish agents of his. Wirth described the whole procedure that went off like a film every time. The extermination camps were in the East of the Government General, in big forests or uninhabited waste lands. They were built up like a Potemkin village. The people arriving there had the impression of entering a city or a township. The train drove into what looked like a railroad station. The

escorts and the train personnel then left the area. Then the cars were opened and the Jews got out. They were surrounded by these Jewish labour detachments, and Kriminalkommissar Wirth or one of his representatives made a speech. He said: "Jews, you were brought here to be resettled, but before we organize this future Jewish State, you must of course learn how to work. You must learn a new occupation. You will be taught that here. Our routine here is, first, everyone must take off his clothes so that your clothing can be disinfected and you can have a bath so that no epidemics will be brought into the camp."

After he had found such calming words for his victims, they started on the road to death. Men and women were separated. At the first place, one had to give his hat; at the next one, his coat, collar, shirt, down to his shoes and socks. These places were set up like check-rooms, and the person was given a check at each one so that the people believed that they would get their things back. The other Jews had to receive the things and hurry up the new arrivals so that they would not have time to think. The whole thing was like an assembly line. At the last stop they reached a big room, and were told that this was the bath. When the last one was in, the doors were shut and the gas was let into the room.

As soon as death taken place in, the ventilators were started. When the air could be breathed again, the doors were opened, and the Jewish workers removed the bodies. By means of a special process which Wirth had invented, they were burned in the open air without the use of fuel.

Q. Was Wirth a member of the SS?

A. No, he was a Kriminalkommissar in Stuttgart.

Q. Did you ask Wirth how he arrived at this devilish system?

A. When Wirth took over the extermination of the Jews, he was already specialist in mass destruction of human beings. He had previously carried out the task of getting rid of the incurably insane. On behalf of the Fuehrer himself, whose order was transmitted through the Chancellery of the

Fuehrer, he had, the beginning of the war, set up a detachment for this purpose, probably composed of a few officials of his, I believe, the remainder being agents and spies of the criminal police.

Wirth very vividly described how he went about carrying out this assignment. He received no aid, no instructions, but had to do it all by himself. He was only given an old, empty institution in Brandenburg. There he undertook his first experiments. After much consideration and many individual experiments, he evolved his later system, and then this system was used on a large scale to exterminate the insane.

A commission of doctors previously investigated the files, and those insane who were considered to be incurable were put on a separate list. Then the institution one day was told to send these patients to another institution. From this institution the patient was transferred again, often more than once. Finally he came to Wirth's institution. There he was killed by gas and cremated.

This system which deceived the institutions and made them unknowing accomplices, this system which enabled him with very few assistants to exterminate large numbers of people, this system Wirth now employed with a few alterations and improvements for the extermination of Jews. He was also given the assignment by the Fuehrer's Chancellery to exterminate the Jews.

Q. The statements which Wirth made to you must have surpassed human imagination. Did you immediately believe Wirth?

A. At first Wirth's description seemed completely fantastic to me, but in Lublin I saw one of his camps. It was a camp which collected the property or part of the property of his victims. From the quantity - there were an enormous number of watches piled up - I had to realize that something frightful was going on here. I was shown the valuables. I can say that I never saw so much money at one time, especially foreign money - all kinds

of coins, from all over the world. In addition, there were a gold-smelting furnace and really prodigious bars of gold.

I also saw that the headquarters from which Wirth directed his operations was very small and inconspicuous. He had only three or four people working there for him. I spoke to them too.

I saw and watched his couriers arrive. They actually came from Berlin, Tiergarten Strasse, the Fuehrer's Chancellery, and went back there. I investigated Wirth's mail, and I found in it confirmation of all this.

Of course, I could not do or see all this on this first visit. I was there frequently. I pursued Wirth up to his death.

Q. Did Wirth give you names of people who were connected with this operation?

A. Not many names were mentioned for the simple reason that the number of those who participated could be counted, so to speak, on one's fingers. I remember one name: I think the name was Blankenburg, in Berlin.

Q. Blankenburg?

A. Blankenburg, at the Fuehrer's Chancellery.

THE PRESIDENT: Well, we had better adjourn now. We have already been fifty minutes.

(The Tribunal adjourned until 1000 hours, 8th August, 1946.)

THURSDAY, 8TH AUGUST, 1946

GEORG KONRAD MORGEN RESUMED

DIRECT EXAMINATION BY DR. PELCKMANN (counsel for the SS):

Q. Witness, I have two pictures to show to you. This has nothing to do with your examination concerning the concentration camps.

DR. PELCKMANN: They are the same pictures, your Lordship, which showed to the witness Eisenberger yesterday. They have now received exhibit numbers from me, Exhibit SS No. 2 and Exhibit SS No. 3. As I said yesterday, they are taken from the book written in Polish which the prosecution submitted a few days ago, on Pages 9 and 11.

BY DR. PELCKMANN:

Q. What is the rank of this SS man, witness?

A. That cannot be an SS man. He is not wearing an SS uniform. I never saw such a uniform. On the left arm, the man wears the insignia of the police and the police shoulder patch.

Q. That is enough, witness, I shall show you the second photograph. Please answer the question just as briefly.

A. That is not an SS uniform either, nor even any uniform in particular.

Q. Thank you, witness. Yesterday you had already begun the description of the so-called extermination camps and the system of these camps, but I should like to go back to conditions in the concentration camps which are to be distinguished from the so-called extermination camps.

You had given a description of the outward impression given by these camps which was extraordinarily pleasant. So that there, may be no false impression, will you please describe the general observations you made of a negative character.

A. I was asked whether from my impressions of the concentration camps I gained the idea that they were extermination camps.

I replied that I did not get that idea. I did not mean to say that the concentration camps were sanatoria or a paradise for the prisoners. If they had been that, my investigations would have been senseless.

Through these investigations I gained insight into the extremely dark and dismal side of the concentration camps. The concentration camps were establishments which, to put it mildly, were bound to give rise to crimes as a result of a false principle. When I say the principle was at fault, I mean

the following: The prisoner was sent to the concentration camp through the RSHA. A political agency decided about his freedom, and its decision was final. Thus the prisoner was deprived of all legal rights. Once in the concentration camp, it was almost impossible for him to regain his freedom, although, at regular intervals, the cases were reviewed. The procedure was so complicated that apart from exceptional instances the great majority could have no hope. The camp, the RSHA, and the agency which had assigned the individual to the camp had to agree to his release. Only if these three agencies reached an agreement could a release be effected.

Not only the reason for the arrest was taken into consideration, but through a monstrous order of the SS Obergruppenfuehrer Pohl, the production side also became important. If a prisoner was needed in the camp because he was valuable, even though all conditions for release existed, he could not be released.

The concentration camps were surrounded by an atmosphere of secrecy. The prisoner could not have any free contact with the public.

MR. DODD: Mr. President, we do not have the first responsibility, of course, for this defence. But I have discussed with Mr. Elwyn Jones my objection, he has it in here, and he finds no fault with it. It seems to me that what we are hearing here is a lecture on the prosecution's case, and I do not see how it in any sense can be said to be a defence of the SS.

THE PRESIDENT: Dr. Pelckmann, the Tribunal thinks that the latter part of the evidence does not have much bearing on the case of the SS. They think it would be better that you should get on with the case for the SS.

DR. PELCKMANN: The charge against the SS is essentially based on the assertion that the SS as a whole is responsible for the concentration camps.

I am endeavouring to explain to the Tribunal the concentration camp system from the ground up including all those questions which have not yet been explained either by the prosecution or the witnesses, to find out the

absolute truth. And I believe that it is necessary for the Tribunal to know this truth in order to be able to judge whether the charge of the prosecution that the SS as a whole is responsible for the atrocities and the mass exterminations in the concentration camps, or in the extermination camps is justified. I assert -

THE PRESIDENT: Kindly go on with your case, Dr. Pelckmann. Will you kindly go on and make it as short as you can upon those matters which seem to be rather remote.

DR. PELCKMANN: From all the testimony of witnesses which I bring out here on this point, it will be shown that the concentration camp system was a closed system.

THE PRESIDENT: Go on with your case. You are to go on with your case, and not argue with me.

BY DR. PELCKMANN:

Q. Witness, what were the further negative observations which you made? Please be brief, as the Tribunal wishes.

A. The prisoner could not contact the public freely, and so his observations were not made known to the public. In effect, he was subordinate to the rules of the camp. This meant that he had the fear that at any time crimes could be committed against him. I did not have the impression from these facts that their purpose was to produce a system of crimes; but, of necessity, individual crimes were bound to occur.



An emaciated Buchenwald survivor drinking from a bowl following liberation.

Q. Witness, the events and the atrocities and the mass exterminations in the concentration camps are precisely what was charged against the SS. Please describe how these crimes are to be divided into three categories, and what that has to do with the total planning of the SS. According to your information, I distinguish between atrocities caused by conditions beyond control, atrocities caused by superior orders, and atrocities caused by individual criminal acts.

A. A large majority of the horrible conditions in some concentration camps at times did not arise from deliberate planning, but developed from circumstances which in my opinion must be called evil, for which the local camp leaders were not responsible. I am thinking of the outbreak of epidemics. At irregular intervals many concentration camps became victims of typhus, spotted typhus and other sicknesses caused especially by the arrival of prisoners from the eastern areas in the concentration camps. Although everything humanly possible was done to prevent these epidemics and to combat them, the death rate which resulted was extremely high. Another evil was the irregularities in connection with the arrival of prisoners, and the insufficient shelter. Many camps were overcrowded. The prisoners arrived in a weakened condition because, due to air raids, the transports were under way longer than expected. Towards the end of the war, there was a general collapse of the transportation system. Deliveries could not be carried out to the necessary extent; chemical and pharmaceutical factories had been systematically bombed; and all the necessary medicines were lacking. Finally, the evacuations from the east further burdened the camps, and crowded them in an unbearable manner.

Q. That is enough on this point. Will you go on to the second point, the superior orders?

A. As superior orders I consider the mass extermination of human beings which has already been described, not in the concentration camps

but in separate. extermination places. There were also execution orders of the RSHA against individuals and groups of persons.

The third point deals with the majority of individual crimes of which I said -

THE PRESIDENT: Which is the witness talking about when he talks about extermination camps?

Which are you talking about? Which do you call extermination camps?

BY DR. PELCKMANN:

Q. Please answer the question, witness.

A. By extermination camps I mean those which were established exclusively for the extermination of human beings with the use of technical means, such as gas.

THE PRESIDENT: Which were they?

THE WITNESS: Yesterday I described the four plans of the Criminal Commissar Wirth, and referred to the camp Auschwitz. By "Extermination Camp Auschwitz" I did not mean the concentration camp. It did not exist there. But I meant a separate extermination camp near Auschwitz, called "Monowitz."

THE PRESIDENT: What were the other ones?

THE WITNESS: I do not know of any other extermination camps.

BY DR. PELCKMANN:

Q. You were speaking of atrocities on the basis of individual acts of a criminal nature. Please continue.

A. One must distinguish between the types of perpetrators. To begin with, there were killings by one prisoner of another, for example, as an act of revenge. If a prisoner had broken out, then during the search, because one did not know where the prisoner was hiding - perhaps in the camp itself - the whole camp had to line up on the parade grounds. That often lasted for hours and sometimes a whole day. The prisoners were tired and hungry, and this long standing, sometimes in the cold or rain, excited them very much,

so that when the prisoner was recaptured the other prisoners out of revenge, for his having brought this upon them, beat him to death when the opportunity presented itself.

There were many cases in which prisoners who had the impression that one of them was a spy attempted to kill this prisoner in self-defence. There were cases in which individual prisoners were weak and could not work very well, and, in addition, through bad conduct toward the other prisoners, such as stealing bread or similar things, aroused the anger of these others, and if one considers, that a large part of the prisoners were professional criminals who had already been sentenced before, it seems plausible that these people acted in this way

Q. You need not explain that at the moment, we will come back to it later. But will you describe another type of perpetrator?

A. Now I come to killings committed by officers of the camp against prisoners. To give a specific example I should like to describe the case of the commandant of the concentration camp Buchenwald, Koch, who was legally tried and executed. A prisoner was sent to the concentration camp Buchenwald who was an old Party member. On the basis of his having been an old fighter he received the position of Kurdirector. He misused this position to force Polish household employees under threat of dismissal to commit perverted actions with him although he himself was very syphilitic. This man was sentenced to a long prison term by a regular court and after that sent to the concentration camp. Koch found his files, considered the sentence an error, and thinking it necessary to correct this error of justice, had the prisoner put to death.

Another case of an entirely different sort is the following: Koch believed that a certain little Jewish prisoner, who had marked physical peculiarities, was following him to his various offices in the various camps. In the superstitious fear of bad luck, he one day gave instructions to have this prisoner killed.

Another case: Koch believed that his criminal activity, or certain personal relationships, were known to some prisoners. In order to protect himself, he had them killed.

Q. How were these killings made possible and could the other inmates of the camp know about them?

A. The procedure was very simple. The prisoners in question were called, without being given reasons, and had to report at the gate of the camp. That was not especially noticeable because almost every hour prisoners were picked up there for questioning, for removal to other camps, and so forth. These prisoners, without the other prisoners knowing about it, came to the so-called Kommandantur prison, which was outside the camp. There they were held for a few days, often one or two weeks, and then the prison supervisor had them killed, mostly by means of a sham inoculation: actually, they were given an injection of phenol into the arteries.

Another possibility of secret killing was transfer to the hospital. The doctor simply stated that a man needed treatment. He brings him in and after some time he puts him into a single room and kills him. In all these cases the record showed that the prisoner in question had died of such and such a normal illness.

Another case: The prisoner was assigned to a detail of hard work, generally the so-called "Quarry detail." The Kapo of this detail is given a hint and then continually makes the life of the prisoner more difficult by making him work constantly and persecuting him in all ways. Then the day arrives when the prisoner loses patience and in order to escape this torture tries to run away, whereupon the guard whether he wants to or not has to shoot him.

These different forms of killing varied from case to case. By that very fact they were outwardly unrecognisable because they took place in secret places by various methods at various times. It would appear that the commandant who did this, like Koch, relied on certain men who were

absolutely devoted to him and who had key positions, such as the doctors who were arrested, the work supervisor who was also arrested, and who committed suicide immediately after, and upon the aid of Kapos who were devoted to him and who co-operated with him. Where this co-operation was not possible, such excesses and crimes could not occur.

Q. Did you find such cases and such camps?

A. Yes. I have already mentioned the result of our investigations. Since the majority of the camps were set up during the war with new personnel and in the old camps the personnel in key positions was replaced with new people, this co-operation could no longer take place.

Q. Would it be wrong to assume that all camps and all camp commandants and all camp doctors acted in the way you have just described?

A. According to my exhaustive investigations, I can only say that this assumption would be completely wrong. I really met commandants who did everything humanly possible for their prisoners. I met doctors whose every effort was to help sick prisoners and prevent further sickness.

Q. We will go back to the mass exterminations, one case of which you described. You spoke of Kriminalkommissar Wirth who was not a member of the SS and whose staff did not consist of SS men. Why was Wirth given the assignment?

A. I have already mentioned that Wirth was Kriminalkommissar with the Criminal Police in Stuttgart. He was the Kommissar who investigated capital crimes, particularly murder. He had quite a reputation in following up clues, and before the seizure of power he was known to the general public for unscrupulous methods of investigation which even led to a discussion in the Wurttemberg Landtag (Diet). This man was now used in order to cover up the traces of these mass killings. It was thought that, on the basis of his previous professional experience, this man was unscrupulous enough to carry this out, and that was true.

Q. You mentioned the Jewish prisoners who aided in the killings. What became of these people?

A. Wirth told me that at the end of the actions he had these prisoners shot and the profits which he had let them have were taken back from them. He did not do this all at once, but by means of the deceptive methods already described he lured and segregated the prisoners and then killed them individually.

Q. Did you hear from Wirth the name Hoess?

A. Yes. Wirth called him his untalented disciple.

Q. Why?

A. In contrast to Wirth, Hoess used entirely different methods. I could best describe them if we speak of Auschwitz itself.

Q. Was the name Eichmann mentioned at that time?

A. I cannot remember that the name Eichmann was mentioned at that time, but later I heard of it, too.

Q. How did you find the trail which led to Auschwitz?

A. I had the first opportunity through an allusion by Wirth himself. Now I had only to find a reason to institute investigations in Auschwitz itself. Please remember, my assignment was limited; I had to investigate crimes of corruption and the crimes committed in connection with them.

THE PRESIDENT: Dr. Pelckmann, did he not explain how he came to investigate Auschwitz yesterday?

DR. PELCKMANN: No, it is something different, your Lordship.

THE WITNESS: Yesterday I spoke only of Lublin and Wirth. I said I received information about Hoess and wanted to try to get into the camp and needed a reason. I found this reason very soon.

The Protectorate Police had heard about the smuggling of gold in the Protectorate. The clues led to Berlin. The customs search agency, Berlin-Brandenburg, had discovered persons who were posted at the concentration camp Auschwitz and turned over proceedings to the SS and Police Court in

Berlin. I learned of it there and I took over these proceedings concerning the enormous gold smuggling and shortly thereafter went to Auschwitz.

Q. Then you were in Auschwitz proper?

A. Yes, I went to Auschwitz and before I started with the investigation itself -

THE PRESIDENT: When did you go there?

THE WITNESS: I cannot give the date exactly, but it must have been the end of 1943 or the beginning of 1944.

BY DR. PELCKMANN:

Q. The method of extermination there was probably similar to the one you described yesterday?

A. I thoroughly investigated the entire stretch of territory and studied the lay-out and installations. The prisoners arrived on a side track in closed transport cars and were unloaded there by Jewish prisoners. Then they were sorted out according to their capacity for work, and here the methods of Hoess and Wirth differed. The selection of those incapable of all work was done in a fairly simple way. There were several trucks and the doctor told the arrivals to use the trucks. He said that only sick, old persons and women with children were allowed to use them. Thereupon these persons surged toward the transportation prepared for their use and then he needed only to hold back the prisoners that he did not want to send to destruction. These trucks drove off but they did not drive to the concentration camp Auschwitz, but in another direction to the extermination camp Monowitz which was a few kilometres away. This extermination camp consisted of a number of crematoria which were not recognizable as such from the outside. They could have been taken for large bathing establishments and that is what they told the prisoners. These crematoria were surrounded by a barbed wire fence and were guarded from the inside by the Jewish labour details which I have already mentioned. The new arrivals were led into a

large dressing room and told to take their clothing off. When this was done

-

Q. Is that not what you described yesterday?

A. Of course.

Q. What precautions were taken to keep these things absolutely secret?

A. The prisoners who marched to the concentration camp had no inkling of where the other prisoners were taken. The extermination camp Monowitz lay far away from the camp of Auschwitz. It was in an extensive industrial area and was not recognizable as a crematorium, as everywhere on the horizon there were smoking chimneys. The camp itself was guarded on the outside by special troops of men from the Baltic, Estonians, Lithuanians, Latvians and also Ukrainians. The entire technical arrangement was almost exclusively in the hands of the prisoners who were assigned for this, and they were only supervised by an Unterfuhrer from time to time. The actual killing was done by another Unterfuhrer who let the gas into this room. Thus the number of those who knew about these things was extremely limited. This circle had to take a special oath -

EXAMINATION BY THE TRIBUNAL:

BY THE PRESIDENT:

Q. Were these Unterfuhrers in the SS?

A. They wore SS uniforms.

Q. Did you not take the trouble to ascertain whether they were proper members of the SS?

A. I said that they were people from the eastern territories.

Q. I do not care what you have already said. What I asked you was, did you not take the trouble to ascertain whether they were members of the SS?

A. I beg your pardon, your Lordship. I did not understand your question. They could not be members of the General SS. As far as I could learn, they were volunteers and draftees who had been recruited in the Baltic countries where they had carried out security tasks and who were

especially selected and sent to Auschwitz and Monowitz. These were special troops who had only this particular task and no other. They were completely outside of the Waffen SS -

Q. I did not ask you if they were in the Waffen SS. Did you ask questions as to why they were put into SS uniforms?

A. No, I did not ask that question. It seemed incomprehensible to me. It is probably connected with the fact that the commander of the concentration camp -

Q. Wait a minute. You said, as I understand it,, that you considered it incomprehensible why they wore the SS uniforms. Did you not say that?

A. Yes.

Q. Were there no officers of the SS there at all?

A. One officer, the commandant of this company, I believe a Hauptsturmfuehrer Hartenstein, or something like that.

Q. Why did you not ask him why these men were put into SS uniforms?

A. The extermination camp was under the direction of the SS Standartenfuehrer Hoess. Hoess was commandant of the concentration camp Auschwitz, and also of the extermination camp Monowitz. Around Auschwitz were a number of labour camps and I have already said -

Q. I did not ask you where. What I am asking you is why you did not ask these two SS men why they put these men into SS uniforms?

A. I assumed that this was done for camouflage reasons so that this extermination camp would not be distinguished outwardly from the other labour camps and the concentration camp itself. As a soldier it was incomprehensible to me that this damage to the reputation of the SS was tolerated, as it had nothing to do with the extermination.

Q. You yourself were a high SS officer, were you not?

A. I was Sturmbannfuehrer of the Waffen SS.

Q. Well, what I am asking you is this. Why, in those circumstances, you made no inquiry about it, and why you did not ask these high SS officers

there: "What is the meaning of these men being put into SS uniforms?"

A. I did not understand the question.

THE PRESIDENT: Go on.

DIRECT EXAMINATION BY DR. PELCKMANN:

Q. Witness, I should like to ask you the question myself. Why did you not ask the higher SS leaders whom you met there why these people were working in SS uniforms?

A. I said that I had the impression that this was done for reasons of camouflage so that the camp would not be distinguished from the other camps possible through the use of different uniforms.

Q. This explanation which you gave yourself is the reason why you did not make inquiry of the officers, is that true?

A. At any rate I cannot remember having asked the officers about it. I did not speak to officers but only to the commandant Hoess and the commandant of the guards of the extermination camp.

Q. Have you described everything which -

THE PRESIDENT: Go on.

BY DR. PELCKMANN:

Q. Have you said everything in answer to the question as to how secrecy was secured?

A. One essential thing could perhaps be mentioned. Certain Jewish prisoners with connections abroad were selected and were made to write letters abroad telling how well off they were in Auschwitz so that the public got the impression that people well known to them were alive, and could write and say that they were getting on nicely.

Q. Thank you. Now, witness, under normal circumstances what would you have had to do after you had learned of all these terrible things?

A. Under normal circumstances I would have had to have Kriminalkommissar Wirth and Kommandant Hoess arrested and charged with murder.

Q. Did you do that?

A. No.

Q. Why not?

A. The answer is entailed in the question. In Germany, during the war, circumstances were no longer normal in a sense of legal guarantees. In addition, the following must be considered: I was not only a judge, but I was a judge of military penal law. No court martial in the world could bring his Army commander, not to talk of the head of the State, to court.

Q. Please do not discuss law, but tell us why you did not do what you realised you should have done?

A. I beg your pardon. I was saying that it was not possible for me, an Obersturmfuehrer, to arrest Hitler, who as I saw it was the instigator of these orders.

Q. Then what did you do?

A. On the basis of this knowledge, I realised that something had to be done to put an end to this action. Hitler had to be induced to withdraw his orders. Under the circumstances, this could be done only by Himmler as Minister of the Interior and Minister of the Police. I thought at that time that I must endeavour to approach Himmler through the heads of the departments and, by explaining to him the effects of this system, make it clear to him that through these methods the State was being led straight to its downfall. Therefore I approached my immediate superior, the head of the Criminal Police, SS Obergruppenfuehrer Nebe; then I turned to the head of the Main Office of the SS Courts, SS Obergruppenfuehrer Breithaupt. I also approached Kaltenbrunner and the chief of the Gestapo, Gruppenfuehrer Mueller, and Obergruppenfuehrer Pohl of the WVHA, and the Hausarzt, Gruppenfuehrer Dr. Grahe. But apart from taking these necessary steps, I saw a practical way open to me by way of justice; that is, to have the spies and the important members of this system of destruction taken out one after another through the means available to the system itself. I could not do this

for the killings ordered by the head of the State, but I could do it for killings outside of this order or against this order or for other serious crimes. For that reason, I consciously started proceedings against these men and this would have led to a breaking up of this system. But this also had a long-range effect for the near future, for through the big concentration camp trials against Commandant Koch, of whom I spoke earlier, and against the head of the political section at Auschwitz - Criminal Secretary Untersturmfuehrer Grabner, whom I charged with murder in two thousand cases outside of this extermination action - the whole affair of these killings had to be brought to trial. It was to be expected, because of these individual crimes, that the perpetrators would refer to higher orders. This occurred; thereupon the SS jurisdiction, on the basis of the material which I supplied, approached the highest Government heads and officially asked: "Did you order these killings? Is the legal fact of murder no longer valid for you? What general orders are there concerning these killings?" Then the supreme State leadership either had to admit its mistakes and thus expose the perpetrators to prosecution for the mass exterminations, or else an open break would have to result through the ineffectiveness of the entire judicial system. If I may anticipate, on the basis of the trial in Weimar against Koch and Grabner, this problem became acute as I had foreseen; negotiations were suspended and the SS jurisdiction put these questions, which I mentioned before, publicly and officially to the RSHA. Expressly for this purpose, a judge was sent there, who had the assignment to investigate in all sections of the RSHA, to see whether such orders were in existence. As I heard, the result was negative. Thereupon an attempt was made to take steps against Hoess himself, but in the meantime the front had advanced, Auschwitz was occupied - the judge who had been sent there had to stop at the beginning of his fruitless investigations, and in January, 1945, complete disorganization set in which made further legal prosecution impossible. If I may go back, the immediate effects of the judicial investigation were that in

all concentration camps the killing of prisoners by so-called “euthanasia” stopped immediately, because no doctor could feel sure practically from one moment to the next that he would; not be arrested. Everyone remembers the example of the doctor of Buchenwald, I am convinced that through this intervention and action the lives of thousands of prisoners were saved. The killing system itself was severely shaken; for it is noteworthy that shortly after I first approached Kriminalkommissar Wirth, on my second visit to Lublin, I did not find him there. I learned that in the meantime Wirth had suddenly received entire command, and was guarding streets there, and while doing so he was killed in May, 1944. When I heard that Wirth and his command had left Lublin, I immediately flew there in order to find out whether he was merely transferring his field of activity and would continue elsewhere, but that was not so.

Q. In all these investigations, witness, were you in danger of your life?

A. It was clear that the discovery of these horrible crimes was extremely unpleasant to those responsible for them. I knew that a human life meant nothing to these people and that they were ready for anything. As proof, I may cite the following: After I had arrested Grabner, the head of the political section in Auschwitz, and the investigating commission -

THE PRESIDENT: You are not forgetting that you said you were going to take forty-five minutes with this witness, are you, Dr. Pelckmann?

DR. PELCKMANN: No, your Lordship, I have not forgotten, and I regret exceedingly that it is taking longer than I expected, but I believe that I owe the Tribunal this explanation of these facts.

THE PRESIDENT: It seems of very little importance whether this man was in danger of his life or not.

DR. PELCKMANN: From the point of view of the defence, your Lordship, I am of a different opinion, since, for the conditions and the possibilities of opposing this system and for (1) the decision of the Tribunal of 13th March; and (2) compulsion and order, it is of decisive importance.

THE PRESIDENT: Go on, Dr. Pelckmann. The Tribunal does not think it is important.

THE WITNESS: May I add one more sentence on that subject: The investigating commission of the Reich Criminal Police Office at Auschwitz was quartered in barracks, and after it worked with success for some time, unknown persons at night destroyed the whole barracks by fire with all the documents. The investigations in Auschwitz were interrupted and made difficult for some time. You may see from that how ruthless was the opposition to us. I, myself, received enough warnings and threats, but whether I was actually in danger of my life I cannot say.

BY DR. PELCKMANN:

Q. Did the directing personnel of the concentration camp at Auschwitz in way justify the assumption that they knew of these exterminations? I emphasize again - if I understood you correctly - the concentration camp Auschwitz, with its many labour camps, had nothing to do with and was separate from the extermination camp?

A. As I have already said, Hoess was simultaneously commandant of Auschwitz and Monowitz, he is to be considered the directing personnel chief apart from the Commander of the Monowitz troops. I dealt only with these two and these two knew about it.

Q. Did you speak to the doctor of the concentration camp Auschwitz?

A. Yes. When I arrived, the doctor showed me the mortality figures at the time he took over. He pointed out with enthusiasm how since his transfer to Auschwitz these huge figures had gone down precipitately through extensive hygienic measures and changes. With that he came to Grabner. Grabner had wanted him to kill pregnant Polish women. The doctor had refused, since it was irreconcilable with his professional duties. Then Grabner had said that he did not realize the importance of his, Grabner's, tasks. The doctor did not give in, and a quarrel arose which was carried on before the commandant, and neither Hoess nor Grawitz said

anything. Thus the doctor at the time when I met him by accident was in a troubled state of mind and said, "What shall I do?" I said, "What you did, absolute refusal, is quite right and tomorrow I will arrest Grabner."

THE PRESIDENT: What does this have to do with the SS unless the doctor was in the SS? Perhaps he was.

DR. PELCKMANN: It is well known that the doctors were SS doctors, and the witness is describing how an SS doctor in this concentration camp Auschwitz opposed the suggestion of Grabner. He is describing that as a typical case.

THE PRESIDENT: Dr. Pelckmann, the Tribunal thinks you have been quite long enough over this witness. You are going into matters too much in detail.

BY DR. PELCKMANN:

Q. You said previously that you had reported to the various agencies and named three of them, I believe. Please describe how Nebe reacted. What was Breithaupt's attitude? What did Kaltenbrunner and Muller say? What was Pohl's attitude, and how did the Reich Doctor Grawitz react?

A. First I reported to my immediate superior, SS Gruppenfuehrer Nebe, as chief of the RKPA. Nebe was an unexcitable man, but I could see that his hair literally stood on end when I made my report. He was absolutely silent. Then he said that I must immediately report this matter to Kaltenbrunner. The Chief of the Hauptamt SS Courts, Obergruppenfuehrer Breithaupt, also became very much excited. He said that he would immediately go to see Himmler and report this to him and attempt to have a personal interview with Himmler arranged for me. The Reich doctor SS did not know what to say. Obergruppenfuehrer Pohl, however, took another attitude. Previously, or about the same time, I had had the commandant of the Concentration Camp Herzogenbusch arrested; he had caused the death of ten women through punishment he meted out. When I reported this to Pohl, he said this

was a "bagatelle." He said, "What do the lives of ten women matter in view of the thousands of German women dying every night in the air raids?"

Q. Please be more brief on the others.

A. After I had already reported to Obergruppenfuehrer Kaltenbrunner about the actual crimes - the killings which I discovered, were about six months later - a conversation took place in the presence of Nebe, Kaltenbrunner and Muller. This discussion was extraordinarily one-sided. Kaltenbrunner and Nebe were absolutely silent, while Muller, white with rage, fulminated against me and did not give me a chance to speak. When I looked at him calmly, he suddenly jumped up and rushed out of the room and left me alone, while the other two turned away from me. In the afternoon I went to see Muller again and personally told him my point of view once more, but Muller was still absolutely against it.

DR. PELCKMANN: Very well, did you -

THE PRESIDENT: What was the date of this conversation with Kaltenbrunner?

THE WITNESS: That was immediately after the charge was raised against Grabner. I assume in July or August, 1944.

Q. Did you report these things to other circles of the SS?

A. No. I wanted to inform and win over those people to my point of view, those who really had something to say. Nothing else counted. In addition, I was bound by Basic Order No. 1, concerning secrecy on State affairs, and could only approach the chief of the main offices personally. Any mistake I made in contacting other offices would have had serious results for me, would have given my enemies a pretext and thus have delayed the investigation.

THE PRESIDENT: Doctor Pelckmann, he said he did not report it. Surely that is sufficient. We do not want to know more about it. He did not report. We are not trying the witness.

DR. PELCKMANN: Pardon, I believe it is a mistake, if I understood your Lordship correctly. He said he did report.

THE PRESIDENT: He said he made no other report, as I understood it, except this that he has spoken of.

Q. Witness, will you comment on that?

A. That is true. Apart from the chief of the main office of the SS, no one else was informed.

Q. Did you not consider it your duty to inform the public or to clear your conscience somehow, to cry “murder”?

A. I would have needed access to technical means for that - the Press and radio - which I did not have. If I had screamed it from the roof-tops, no one would have believed me, because this system was beyond human imagination. I would have been locked up as insane.

Q. The camp at Dachau was here described as an extermination camp by the prosecution and by certain witnesses. Is that true?

A. I believe that from my investigation from May to July, 1944, I knew the concentration camp Dachau rather well. I must say that I had the opposite impression. The concentration camp Dachau was always considered a very good camp, a rest camp, among the prisoners, and I actually did gain this impression.

Q. Did you see the internal arrangements, the hospital, and so forth?

A. I examined all these facilities carefully, and I must say the hospital was in excellent order. I went through all the wards. There was no noticeable overcrowding, and remarkably enough the number of medical instruments which were at the service of the prisoners was astonishing. Prisoners with special professional abilities were there, too.

Q. Very well. You want to say that conditions were good. Then you contradict the testimony of the witness Doctor Blaha, which was made the subject of evidence here. Do you know his testimony?

A. I read the testimony of Doctor Blaha in the Press, and here I had the opportunity to look through the record of the trial. I must say that this testimony amazes me. I am of the opinion that Blaha, from his own knowledge, cannot make such statements. It is not true that prisoners in a concentration camp can move about freely and have access to the different sections and installations.

THE PRESIDENT: The Tribunal thinks he can say that he disagrees with the evidence of Blaha, but not that Blaha was not telling the truth. He disagrees, he said it. We think you might get on. How much more time do you anticipate that you will take.

DR. PELCKMANN: Five minutes, your Lordship.

Q. You were just about to say, witness, why you did not agree with the testimony of Blaha?

THE PRESIDENT: He has given his own evidence about the matter, and he says he is in contradiction with Blaha. We do not want further details about it.

DR. PELCKMANN: Mr. President, if I understood correctly, it is for the witness to give credible testimony. If he does not say that to such and such points of the testimony of Blaha he has such and such an objection, the prosecution can say he did not comment on it. That is my point. Please instruct me, your Lordship, if I am mistaken.

THE PRESIDENT: He has given his account of the camp at Dachau. The Tribunal has before it the evidence and testimony of Blaha. The Tribunal can see for itself if the evidence is inconsistent. That is sufficient.

DR. PELCKMANN: I attempted to give the reasons, but if the Tribunal does not wish to go into it further, I will withdraw the question.

Q. I will go on to the next question which is of importance to your credibility. Did you give this testimony once before as you have given it here?

A. Yes. At the time of the collapse I was chief justice in Breslau. When I later came to Germany, I heard the CIC was looking for me on account of my knowledge about concentration camps. I reported to the CIC Headquarters Mannheim-Seckenheim, 7th Army, and said I was ready to help to clear up the question of the crimes. I gave my testimony as I have attempted to do today. I went to the CIC Headquarters, Oberursel, and after I had given my testimony I was put in a bunker in Dachau, together with the accused people I had previously arrested myself.

Q. Very well. Do you know the document "SS Dachau" which I submitted to the Tribunal yesterday, and which I should like to designate as Exhibit SS 4? Do you know this document? Answer yes or no.

A. Yes.

Q. On Page 46, there is the testimony of a Mrs. E. H. Was this testimony made before you as the investigating judge?

A. Yes, this was a Mrs. Eleanore Hodis, a prisoner in Auschwitz; I questioned her under oath.

Q. And did you examine the document and make certain this was the evidence which the woman gave? Yes or no.

A. Yes.

Q. When was that?

A. In the autumn of 1944.

Q. The testimony is against Hoess?

A. Yes.

Q. Were proceedings then instituted against Hoess?

A. Yes. The testimony was submitted to Hoess in the original.

Q. The testimony concerns conditions in Auschwitz. Is that true?

A. Yes.

Q. It is not true that it concerns the situation in Dachau?

A. No.

THE PRESIDENT: The Tribunal will take a recess.

(A recess was taken).

DR. MERKEL: Mr. President, I should like to be permitted to put three brief questions to this witness, concerning non-participation and ignorance on the part of the Gestapo as far as the mass extermination is concerned.



Wolfram Sievers (1905-1948), Executive Secretary of the SS-Ahnenerbe. He was sentenced to death on August 7 1947 for crimes against humanity in the Doctors' Trial, and hanged on June 2nd 1948.

THE PRESIDENT: You may.

BY DR. MERKEL:

Q. Witness, if I understood you correctly, the crimes of Kriminalkommissar Wirth in Lublin were discovered because of a report of the Security Police in Lublin.

A. Yes.

Q. So, did the Security Police in Lublin participate in these crimes in any way?

A. No. As I saw it that was not the case.

Q. The witness Best stated the camps at Treblinka and Maidanek were under the supervision of the Security Police. Is that correct?

A. I know nothing about that. Wirth explained that he had four extermination camps. I believe the name Treblinka was mentioned in that connection.

Q. According to your conviction, this camp as well was under Wirth?

A. I assumed that.

Q. Did you wish to execute an order of the SS Court to arrest Eichmann?

A. I asked the SS Court at Berlin to examine Eichmann on the basis of my report. The SS-Court in Berlin, thereupon, submitted the order to intern Eichmann to the Chief of the RSHA in his capacity as judge, SS Obergruppenfuehrer Kaltenbrunner.

Dr. Bachmann reported to me that on the submission of this matter, rather dramatic incidents took place.

Kaltenbrunner immediately called in Muller, and now the judge was told that an arrest was not to be considered in any event, for Eichmann was carrying out a special secret task of the utmost importance entrusted to him by the Fuehrer.

Q. When was that?

A. That was in the middle of 1942.

DR. MERKEL: Thank you, I have no further questions to put to this witness.

DR. GAWLIK (on behalf of the SD): Your Lordship, may I be permitted to put a few questions, please?

THE PRESIDENT: Yes.

BY DR. GAWLIK:

Q. Witness, you mentioned the orders of the RSHA. From which office did these orders come?

A. Do you mean the orders for the mass extermination?

Q. Yes.

A. I stated that the SS jurisdiction -

Q: Answer the question briefly, please. Which office issued these orders?

A. I said that the investigating judge could not establish the origin of such orders to my knowledge.

Q. You spoke of the orders of the RSHA, did you not?

A. I said that the accused Koch and Grabner, because of the killings they committed, referred to orders of the RSHA and said that these orders had to be destroyed as soon as they were received. That was purely an assertion and therefore this statement had to be investigated.

Q. Did you ascertain that the Offices III, VI and VII were in anyway participating in these measures?

A. I have already testified that Wirth's undertaking directly -

Q. Can you answer this question with a yes or no?

A. I could not determine that.

DR. GAWLIK: Thank you. I have no further questions to the witness.

SIR DAVID MAXWELL FYFE: The prosecution very carefully considers the question of cross-examining this witness. We do not accept his evidence as to Buchenwald, Dachau, and as to conditions in concentration camps generally. We feel, however, the Tribunal has been

shown such an overwhelming amount of evidence, including films and exhibits of the consistent pattern of cruelties in the concentration camps, of the smelling chimneys of the crematoria, and of the persons who carried out these actions, that we consider that any further discussion of these matters should be by way of comment, and that it would not be right to take up the time of the Tribunal by confronting this witness with the details of that evidence which is so fully in the Tribunal's mind.

THE PRESIDENT: The witness may retire.

Is that your case?

DR. PELCKMANN: Yes.

THE PRESIDENT: The prosecution wants to cross-examine the witness Sievers. We will call for Wolfram Sievers.

(WOLFRAM SIEVERS, a witness, took the stand and testified as follows):

BY THE PRESIDENT:

Q. What is your name?

A. Wolfram Sievers.

Q. Will you repeat this oath after me:

I swear by God, the Almighty and Omniscient, that I will speak the pure truth and will withhold and add nothing.

(The witness repeated the oath.)

THE PRESIDENT: You may sit down.

CROSS-EXAMINATION BY MR. ELWYN JONES:

Q. You are Wolfram Sievers and from 1935 on you were Reich manager of the Ahnenerbe (Ancestral Heritage Society), were you not?

A. I was the Reich manager of the Ahnenerbe.

Q. You recollect on the 27th June you gave evidence before the Commissioner appointed by this Tribunal?

A. Yes.

Q. I am referring to Page 1925 of the transcript of your evidence before the Commission.

Do you recollect that Dr. Pelckmann, the counsel for the SS, accounted that he was calling you to show that this Ahnenerbe did not know of the biological experiments of the group led by Dr. Rascher, performed on concentration camp inmates?

A. Yes.

Q. And do you remember, the record is on Page 1932 of the transcript, that when Dr. Pelckmann asked you:

“Did you have any possibility of having an insight into the circumstances relating to or the planning of the methods or the carrying out of these scientific research works of the military scientific department?” you answered “No”?

A. I recall that.

Q. And when I cross-examined you upon your testimony, do you recall telling the Commissioner that Himmler and Rascher were very close friends and you did not know exactly what went on? Do you remember that?

A. I said that I was informed about these matters only in general but not in particular.

Q. In my final question to you in cross-examination, I asked you:

“How many people do you estimate were murdered in connection with Rascher’s and other experiments carried out under the guise of ‘Nazi science?’” and to that question you gave this answer:

“I cannot say because I had no knowledge of these matters.”

Do you remember that on Page 1939 of the transcript?

A. Yes, indeed.

Q. Well, now, I want to see whether or not you did have knowledge of these matters.

Did you ever hear of Professor Hirt’s skeleton collection?

A. That is in connection with anatomy at the University of Strassburg -

Q. I asked you did you hear about it?

A. Yes, indeed, I did hear of it.

Q. You played a very active part in the creation of that collection of skeletons, did you not?

A. I did not understand the end of the question.

Q. You played an active part in the collection of these skeletons?

A. No.

Q. I want you to look first at Document No. 116.

It is an insertion into the Tribunal's Document Book at Page 1901. It follows Page i9 in your Lordship's document book. It will be Exhibit GB 573.

Now we shall be able to test your ignorance of this collection. This is a letter from Brandt to the Main Office for the Security of the Reich, dated 6th November, 1942.

Brandt was Himmler's agent, was he not?

A. He was his personal expert.

Now, this letter:

"Subject: Organization of a skeleton collection in the Anatomical Institute of Strassburg.

The Reichsfuehrer SS has ordered that everything necessary for the research work of SS Captain (Hauptsturmfuehrer) Professor Dr. Hirt, who is at the same time director of a branch of the Institute for Scientific Researches for Specific Purposes in the Office Ahnenerbe, should be placed at his disposal. By order of the Reichsfuehrer SS, I therefore request you to make the organization of the planned skeleton collection possible. The SS Lt.-Col. (Obersturmbannfuehrer) Sievers will contact you for details."

Now, that Sievers is you, is it not?

A. Yes.

Q. Were you contacted for details?

A. Here we are concerned with the building up of a department of anatomy at the University of Strassburg which had been newly taken over, and this was a matter of reconstruction of the so-called anatomical museum, something quite customary with all anatomical departments in universities everywhere.

Q. This was just a piece of academic research, was it?

A. Yes.

Q. Where were you going to get the skeletons from?

A. Particulars were to be handled by Professor Hirt -

Q. Now just answer my question, witness, because you know perfectly well the answer to it.

Where were you going to get those skeletons from?

A. They were to be put at our disposal from Auschwitz.

Q. Now, I want you to look at a letter which you sent to Brandt, in furtherance of Brandt's communication containing suggestions as to where those skeletons should come from.

It is Document No. 085, which will be Exhibit GB 574. It is at Page 11 of the document book, my Lord. It is at Pages 14 and 15 of the German Document Book.

Now, that is a letter headed "The Ahnenerbe," dated 9th February, 1942, marked "Secret." It is addressed to Brandt, Himmler's adjutant. It is your letter, witness, is it not, it is your signature at the bottom of it? A. Yes.

Q. I will read it out.

"Dear Comrade Brandt:

Professor Dr. Hirt's report, which you requested in your letter of 29th December, 1941, is submitted in the enclosure. I was not able to send it to you before because Professor Hirt was taken seriously ill."

Then there follow details of his illness.

"Because of this, Professor Hirt was merely able to write a preliminary report which, however, I should like to submit to you. The report concerns:

1. His research with the microscope on living organs; the discovery of a new method of examination and the construction of a new research microscope.

2. His proposal for securing skulls of Jewish-Bolshevik commissars.”

Then there is your signature and you forwarded that letter and Professor Hirt’s report and his suggestions, and this is Hirt’s report:

“Subject: Securing of skulls of Jewish-Bolshevik commissars for the purpose of scientific research at the Reich University, Strassburg.

We have a nearly complete collection of skulls of all races and peoples at our disposal. Of the Jewish race, however, only very few specimens of skulls are available, with the result that it is impossible to arrive at precise conclusions from examining them. The war in the east now presents us with the opportunity to overcome this deficiency. By procuring the skulls of the Jewish-Bolshevik commissars, who represent the prototype of the repulsive but characteristic subhuman, we have the chance now to compile good, scientific documents.

The best practical method for obtaining and collecting this skull material could be handled by directing the Wehrmacht to turn over alive all captured Jewish-Bolshevik commissars to the Field Police. They, in turn, are to be given special directives to inform a certain office at regular intervals of the numbers and place of detention of these captured Jews and to give them close attention and care until a special delegate arrives. This special delegate, who will be in charge of securing the material (a junior physician of the Wehrmacht or even the Field Police or a student of medicine equipped with a motor car and driver), will be required to take a previously established series of photographs, make anthropological measurements and, in addition, determine as far as possible other personal data of the prisoners.

Following the subsequently induced death of the Jew, whose head should not be damaged, the physician will separate the head from the body

and will forward it to its proper point of destination in an hermetically sealed tin can, especially made for this purpose and filled with a conserving fluid. Having arrived at the laboratory, the comparison tests and anatomical research on the skull, as well as determination of the race membership and of pathological features of the skull form, the form and size of the brain, etc., can proceed by means of photos, measurements and other data supplied on the head, and the skull itself.”

That was the report which you forwarded to Brandt?

A. Yes, that was the report of Professor Hirt.

Q. How did the collection of these skeletons from the living proceed?

A. I cannot give you the exact details. In earlier interrogations I pointed out that Professor Hirt would have to be asked himself about this matter.

Q. Now, witness, I want to give you another opportunity of telling the truth.

Are you saying to this Tribunal that you do not know what happened with regard to the progress of that collection of skulls and skeletons?

A. That may be seen from the report itself. Persons were then put at our disposal for this task by order of Himmler.

Q. Who put the actions into operation; did you have anything to do with it, with the collection of the bodies?

A. No, nothing at all, and I do not know either in what way the whole thing started, for the direct correspondence and conferences which had taken place previously between Himmler and Hirt are things I know nothing about.

Q. Well, now, witness, I have given you an opportunity of protecting yourself from perjury. You have not taken it. Look at the next document, No. 86, which is on Page 13 of the document book. It will be Exhibit GB 575. That is another of your letters. It is another letter of yours, again to Himmler’s adjutant. It is marked “Secret.” It is dated 2nd November, 1942. Page 13 of your document book, my Lord.

“Dear Comrade Brandt

“As you know, the Reichsfuehrer SS has directed that SS Hauptsturmfuehrer Professor Dr. Hirt be supplied with everything needed for his experiments. For certain anthropological experiments - I have already reported to the Reichsfuehrer SS on them -150 skeletons of prisoners of Jews are required, which are to be supplied by the KL Auschwitz. The only thing that remains to be done is that the RSHA receive an official directive from the Reichsfuehrer SS. This, however, can also be given by you, acting for the Reichsfuehrer SS.”

You had already been discussing this with Himmler, witness, had you not? You were his agent for collecting these living men to turn them into skeletons?

A. That does not apply in this form. The entire matter covered such a long period of time that as I was concerned only with particulars, I am not able to reconstruct the entire connection on the spur of the moment.

Q. I am sure you are not in a hurry to reconstruct them, as I am sure you could do. For the second time in regard to this matter you have taken an oath, and I want you to give some indication that you know what an oath means. You are a man of education.

Look at the next document, Number 089, to refresh your memory as to how distant you were from this matter.

It becomes Exhibit GB 576.

THE PRESIDENT: It came through 089. Do you mean 089?

MR. ELWYN JONES: Nought-eight-nine, Page 16 of your Lordship's document book.

BY MR. ELWYN JONES:

Q. That is a letter from Brandt to the RSHA dated 6th November, 1911; marked “Secret.” It is for the attention of SS Obersturmbannfuehrer Eichmann; of the RSHA. Reference is “Establishment of a collection of skeletons at the Anatomical Institute at Strassburg.”

A. Yes.

“The Reichsfuehrer SS has issued a directive to the effect that SS Hauptsturmfuehrer Professor Dr. Hirt, who is the director of the Anatomic Institute at Strassburg and the head of a department of the Institute for Military Science Research in the Ahnenerbe Society, be furnished with everything he needs for his research work. By order of the Reichsfuehrer SS, therefore, I ask you to be of assistance in materialising the planned collection. SS Obersturmbannfuehrer Sievers will get in touch with you to discuss the details.”

Q. Do you still say you know nothing of the details of this matter?

A. I did not say that, you know. Here we are concerned with the entire historical development of this matter, and in that connection I just cannot say when it started, for it can be traced back directly to conversations between Himmler and Hirt, which took place before Hirt became Director of Anatomy at Strassburg University. In that capacity, he had the opportunity and received the task of setting up a modern anatomical department supplied with the necessary modern scientific facilities and collections. Thereupon Hirt, in view of his previous conversations with Himmler, made the application as may be seen from the report. Then I received the order to help Hirt in this task assigned to him by Himmler. I do not know whether Himmler himself -

Q. Just a moment, witness. How many human beings were killed to create this collection of skeletons?

A. One hundred and fifty people are mentioned in this report.

Q. That was all you assisted in murdering, was it?

A. I had nothing to do with the murdering of these people. I simply carried through the function of a postman.

Q. You were the post office, another of these distinguished Nazi post offices were you?

A. If you wish to refer, as I gather from your question, to my interrogation before the Commission, I must point out that in the interrogation before the Commission only the group Rascher was under discussion.

Q. I asked you quite clearly when I cross-examined you before the Commission - my first question is on the record at Page 1939 of the transcript - "How many people do you estimate were murdered in connection with the, Rascher and other experiments carried out under the guise of Nazi science?" and you told me, "I cannot say, because I had no knowledge of these matters, you know." Fortunately, there are records available of what you said.

Now, just turn to the next document, Number -

A. Even today I cannot fix the dates, and I do not know the exact number of persons used by Rascher for experiment. I cannot tell you that there were a certain number, if I do not know.

Q. You swore to the Commissioner that you had no knowledge of these matters. Turn to Document 087, so that your memory may be refreshed.

That will be Exhibit GB 577. It is Page 14 of your Lordship's document book.

This is another of your letters. It is headed "Ahnenerbe Society, Institute for Military Scientific Research." You were the director of that institute, were you not?

A. Yes. I was the Reich business manager.

Q. Yes. This is dated 21st June, 1943. It is marked "Top Secret," to the RSHA Department IV B 4, for the attention of SS Obersturmbannfuehrer Eichmann.

"Subject: Establishment of a Collection of Skeletons.

Referring to your letter of 25th September, 1942, and the personal conversations which have since taken place on this subject, I wish to inform you that our associate, SS Hauptsturmfuehrer Dr. Hager, who was in charge

of the above special project, broke off his experiments in the KL Auschwitz on 15th June, 1943, because of the existing danger of epidemics.

Altogether 115 persons were experimented on.”

Let me just pause there for a moment. What form of experiments were going on on these human beings with a view to the collection of skeletons? What sort of experiments were they, witness?

A. Anthropological measurements.

Q. Before they were murdered, they were anthropologically measured? That was all there was to it, was it?

A. And casts were taken.

Q. It does not take very long to make an anthropological measurement or to take a cast, you know, witness. There were some other experiments than measurements and casts carried out on these unfortunate victims of your science, were there not?

A. I am not familiar with this type of work in Auschwitz. I know only that anthropological measurements were taken, but I do not know how long these measurements took.

Q. I will continue your letter now, which makes it quite clear that there must have been something far more sinister than anthropological measurements.

“Altogether 115 persons were experimented on. Seventy-nine were Jews; thirty were Jewesses, two were Poles and four were Asiatics. At the present time these prisoners are segregated by sex and are under quarantine in two hospital buildings of KL Auschwitz.

For the further experimentation on these selected prisoners it will be necessary to have them transferred to the KL Natzweiler. This transfer should be made as speedily as possible because of the existing danger of an epidemic at Auschwitz. A list of the selected people is attached.

We request that the necessary directives be issued. Since this transfer of prisoners presents a certain amount of danger of spreading the epidemic to

Natzweiler, we request that immune and clean prisoner clothing for eighty men and thirty women be sent from Natzweiler to Auschwitz immediately. At the same time lodgings should be prepared for the women at Natzweiler in the near future.”

That is your letter.

If your only interest in these unfortunate people was their anthropological measurements and the securing of their frail bones for skeletons, why did you not kill them straight away? You must have made experiments on them, the results of which you wanted to discover, did you not?

A. No, I know nothing whatever of experiments, and such experiments were not carried on.

Q. What happened to this collection of skeletons? Where was it assembled?

A. It was taken to Natzweiler, and the further treatment was in the hands of Professor Hirt.

Q. After SS Professor Hirt and the other SS men had murdered these people what happened to their bodies? Where were they sent?

A. I assume that they were taken to the Anatomical Department at Strassburg.



Elizabeth Klein, murdered at the Natzweiler-Struthof concentration camp, and was selected for the Jewish skeleton collection directed by August Hirt.

Q. Have you any doubt in your mind about that, witness? You seem to be hesitant about admitting it. Have you any doubt?

A. Well, I have seen no reports about that and did not receive any.

Q. Did you have anything to do with the disposal of those skeletons and those bodies ultimately? Did you have anything to do with the ultimate disposal of those bodies? I appreciate your difficulty in answering the question.

A. No. That was in the hands of Professor Hirt. I was not at Strassburg or Natzweiler in this connection at all.

Q. Did you make any suggestion as to what should happen to the collection at any time?

A. It was much later when the questions concerning the occupation of Strassburg and where the collection was to be deposited arose.

Q. What did you do then?

A. I believe there was a conference which took place - I cannot exactly tell you with whom it was - to obtain a decision on the part of Himmler as to where the collection was to be housed.

Q. Were you present at that conference?

A. I did not talk with Himmler about that matter then.

Q. Did you make any suggestion as to what should happen and what should be done with the human bodies that you had assembled at Strassburg? Did you have any suggestions to make?

A. I cannot say any more. I no longer remember.

Q. Just try to recollect, will you? I am sure you know. It was 1944. It is not very long ago. I am sure it must be very vivid in your memory.

A. I am sorry; I cannot give you an exact answer because I do not remember.

Q. Witness, when the Allied Armies were approaching Strassburg and the day of reckoning was near, what suggestion did you make with regard to these bodies in Strassburg? Tell the Tribunal.

A. I said that I asked Himmler to make a decision as to what was to become of this collection. This was an affair which originated from conversations and ideas between Himmler and Hirt, and I was drawn into it because of the administrative and technical dispatch of the matter; and therefore Himmler alone could decide what was to be done.

Q. I have again given you an opportunity to protect yourself from perjury. Look at Document No. 088 at Page 15; in your Lordship's document book it will be Exhibit GB 578. This is another of the letters from your personal staff to Brandt, Himmler's adjutant; and it is addressed to the Reichsfuehrer SS Personal Staff Department A; and that is the Ahnenerbe. It was dated 5th September, 1944. It is marked "Top Secret." The Allied Armies by then were advancing towards Strassburg, were they not?

A. Yes, that is correct.

Q. The subject is "Collection of Jewish Skeletons."

"According to the proposal of 9th February, 1942, and your approval of 23rd February, 1942, Professor Dr. Hirt has assembled the skeleton collection which was previously non-existent. Because of the vast amount of scientific research connected therewith, the job of reducing the corpses to skeletons has not yet been completed. Since it requires some time for eighty corpses, Hirt requests directives as to what should be done with the collection stored in the morgue of the Anatomical Institute in case Strassburg should be endangered.

The collection can be stripped of the flesh and thereby rendered unidentifiable. This, however, would mean that at least part of the whole work had been done for nothing and that this collection, the only one of its kind, would be lost to science, since it would be impossible to make plaster casts afterwards. The skeleton collection as such is inconspicuous. The flesh parts could be declared as having been left by the French at the time we took over the Anatomical Institute and would be turned over for

cremating. Please advise me which of the following three proposals is to be carried out:

1. The collection as a whole is to be preserved.
2. The collection is to be dissolved in part.
3. The collection is to be completely dissolved.”

Why were you wanting to de-flesh the bodies, witness?

A. In this connection I must say that this letter reached me as an inquiry from Professor Hirt and was further transmitted in this teletype letter. As I said previously for this reason I could not exactly remember it for as a layman the entire manner of treatment was totally unknown to me.

Q. Why were you suggesting that the blame should be passed on to the French? You knew there was murder in connection with this collection, did you not? You knew it perfectly well, witness.

A. I just said that I transmitted an inquiry from Professor Hirt; and that explains that I could not put an inquiry of my own in this form, for I as a layman could have no opinion in this matter. I stated that this was an inquiry by Hirt which was transmitted by me.

Q. Were you able to carry out the suggestion of the de-fleshing of these bodies?

A. I cannot tell you anything about that for I cannot quite imagine how it was done.

Q. Happily, again there is a document which indicates the whole story. Just look at it because it is clear that you have no intention of telling the truth. Document No. 091, Exhibit GB 579. There are two following notes from Himmler's file. The first note, signed by SS Hauptsturmfuehrer Berg: “On 12th October, 1944, I had a telephone conversation with SS Standartenfuehrer Sievers and asked him if the Strassburg skeleton collection had been completely dissolved as directed by SS Standartenfuehrer Baumert. SS Standartenfuehrer Sievers could not advise me on that matter since he had not as yet heard anything further from

Professor Hirt. I told him that in case the dissolution had not yet been carried out, a certain part of the collection should be preserved. However, guarantee should be given that a complete dissolution could be made in time in case Strassburg should be in danger. SS Standartenfuehrer Sievers promised me that he would find out about it and let me know.”

And then the next entry on 26th October, 1944, a note for Dr. Brandt:

“During his visit at the Operational HQ on 21st October, 1944, SS Standartenfuehrer Sievers told me that the collection in Strassburg had been completely dissolved in the meantime in conformance with the directive given him at the time. He is of the opinion that this arrangement is for the best in view of the whole situation.”

A. The authenticity of my testimony can be seen from the remarks of the Hauptsturmfuehrer Berg, for he says “Standartenfuehrer Sievers could not advise me on that matter since he had not as yet heard anything further from Professor Hirt.” So in every respect I was always dependent upon the statements, reports and proposals of Dr. Hirt. My own attitude in these matters did not play any role whatsoever. As I have already mentioned in the interrogations before the Commission, I was not responsible for any action taken nor could I prevent any action.

Q. You were the business manager in this scientific experiment in murder, were you not? That was your function? You were a vital cog in the machine of this “Ahnenerbe”?

A. It was by no means an essential part, as may be seen from the Commission findings. “Ahnenerbe” comprised more than fifty branches and had great research projects on a scientific basis in accord with its original intentions. It occupied itself with these projects so exclusively that these matters which, I think, were very unfortunately brought into relationship with it by Himmler, hardly played any part in it at all. In vain did I try to prevent this connection.

Q. You go as far as to admit that certain unfortunate matters did arise in connection with the work of the “Ahnenerbe,” do you?

A. I never disputed that in the past.

Q. What was your connection with the experiments on human beings as regards poison gas or poisoned chemical “Lost,” experiments on counter-agents for wounds caused by your preparation, “Lost”?

A. Professor Hirt developed a therapeutic treatment for the curing of “Lost” injuries. In the development of this method of therapy, he experimented on himself, an experiment which damaged his health, as can be seen from the documents submitted here now.

Q. Did he experiment on anyone other than himself?

A. Himmler was interested in these experiments and was quite excited when he heard that Hirt had done them on his own person; and in this connection he referred to the Fuehrer decree that in the case of such experiments volunteer from inmates or criminals who had been sentenced to death should be chosen. Thereupon Hirt, and only at Himmler’s request, conducted controlled experiments on twenty persons, that is, when he had already ascertained from his own experiments that lasting injury would not occur. Himmler further pointed out, and this was his first contact with Hirt in the work, that it was much more important that animals should be procured for the experiments, for, at the outbreak of war the supply of these had diminished to such an extent that the necessary scientific work could no longer be carried out.

Q. Just a moment, witness. Can you not answer my questions without going into these lengthy speeches? Did you substitute human beings for animals for the purpose of these experiments?

A. You mean in connection with Professor Hirt?

Q. Certainly.

A. Yes, I just said that after the experiments on his own person he experimented on twenty people who reported voluntarily for this purpose.

Q. Did you write to Brandt in connection with the “Lost” experiments, explaining certain difficulties that you were meeting with at the Natzweiler concentration camp?

A. I do not have the document before me.

Q. Do not worry yourself. Just try to answer my question. Do not worry whether you have the document before you. I appreciate it will be embarrassing if it is found. Just answer my question. Did you write to Brandt in connection with these “Lost” experiments, describing difficulties you were meeting with concentration camp?

A. I do not remember in detail what difficulties were involved. It may be that I wrote that.

Q. Try to recollect what you wrote about in connection with these “Lost” experiments, will you?

A. Well, I can only mention now, as before, that these things came to me on the basis of notes and reports from Hirt and that I transmitted these matters without being able to recall them in detail, because these were single incidents among the vast amount of my work, so that I could no longer remember after this length of time.

Q. I appreciate the mass of work you were involved in. I have four or five other experiments in murder to draw your attention to. But just look at Document No. 092, Page 19 of your Lordship’s document book, GB 58. That is a letter from Brandt to you. It is addressed to you, SS Standartenfuehrer Sievers, the Ahnenerbe Society, dated 3rd December, 1942. “I have your note of 3rd November, 1942, again in front of me today. At the time I could only speak to SS Obergruppenfuehrer Pohl very briefly. If I remember correctly, he even sent me a letter informing me that he would have the deficiencies which you described taken care of, but I did not have time to enumerate them in detail. I had just received your letter the same morning on which I went to see SS Obergruppenfuehrer Pohl. Therefore, it was impossible for me to read it beforehand. I only

remembered what you had told me during our last conversation. If it should be necessary for me to take this matter up again, will you please let me know.” Now, what were those deficiencies which you had described in your note to Pohl? Just try to remember them.

A. I cannot tell you what was involved in particular here. Please show me the note.

Q. Can you not recollect at all what the difficulty was? Was it connected with the payment for the prisoners to be experimented on?

A. I do not recall that.

Q. In any event, these experiments in connection with the “Lost” went on as far as April, 1944, did they not?

A. I cannot tell you that from memory.

Q. Try to recollect. Did they not go on until April, 1944? Just look at Document No. 015. You are being totally uncooperative. That would be Exhibit GB 581. That is another of your letters to the Reichsfuehrer SS. On Page 6 of your document book, my Lord. To the Reichsfuehrer SS Personal Staff: Department A. It is dated 11th April, 1944. Top secret. It is from you to Brandt. Subject: Fuehrer’s order of 1st March, 1944.

“Dear Comrade Brandt. In accordance with orders, I got in touch with SS Brigadefuehrer Professor Dr. Brandt and informed him in Beelitz on 31st March about the research work conducted by SS Hauptsturmfuehrer Professor Dr. Hirt. On this occasion I handed to him the plan for the treatment of L.-injuries ...” That is “Lost” injuries, is it not, witness?

A. Yes.

Q. “... worked out by Professor Hirt, a copy of which I enclose for you for presentation to the Reichsfuehrer SS, if the occasion should arise. Professor Brandt tells me that he will be in Strassburg in the first week in April, and that he intends to discuss details with Professor Hirt then.”

Now, you see that those experiments on human beings with this poison “Lost” went on right through to 1944, did they not?

A. No, it is not true that way. This letter refers to the following: Professor Brandt was made General Commissar for questions pertaining to fighting material. I received a copy of this report appointing him, with instructions that now, since his appointment had taken place, I should get Hirt to talk with Brandt. Hirt told me that he could not travel to Mr. Brandt at Beelitz just for that. Therefore, at the request of Hirt, I went to see Brandt.

All right, witness. I want you to turn now to another aspect of your work, the Rascher experiments. You remember telling me that you had no insight into the Rascher experiments?

A. I stated that I had a general insight, but knew nothing of particulars.

Q. I want you to look now at your diary for the year 1944, the Ahnenerbe diary, Document 3546-PS. It has already been marked Exhibit GB 551. Your Lordship will find a few extracts from it at Page 29 of the document book. Witness, I have made, certain extracts from your diary, and it might be convenient for you to follow those extracts, and if you want to check them against your own diary, you will be able to do so. They show how in that year you were intimately connected with Rascher and all these other murderous activities. The first entry is for the 6th January, 1830 hours. SS Hauptsturmfuehrer Dr. Rascher. Paragraph (c) Letter from RFSS to Obergruppenfuehrer Pohl about assistance for scientific research work. Rooms for carrying through of freezing experiments. They were at Dachau, were they not?

A. Yes, they were to be carried through, but as I have already said in the Commission interrogations, this was not done. These are notes about a conversation with Rascher in which he was reporting on these matters.

Q. Witness, are you saying that the freezing experiments at Dachau were not carried through?

A. Rascher told me that he would not be able to carry through these experiments, that they would have to be carried through in a locality

requiring constant extreme temperatures, and so these experiments did not take place.

Q. But you actually saw some of these experiments yourself being carried out, did you not, in Dachau? You were in Dachau from time to time?

A. I am afraid that there is some confusion here between the freezing experiments by the Luftwaffe and the freezing experiments which were to be carried out later on in connection with the extreme cold in the East. Here in the year 1944 we are concerned with the experiments in freezing

Q. Which are the freezing experiments that you used to watch?

A. I know only the freezing experiments carried on under the Luftwaffe.

Q. Did you see any of them being carried on?

A. I had the order to accompany Professor Hirt, who, together with Rascher, was to work on this problem and to arrive at a solution. I was present at one of those experiments.

Q. Now we will go to Document 3546-PS, a little further. I have selected some random entries from it to show your close association with this matter. "Twenty-third January, 1130 hours, Lecture to RFSS together with Obersturmbannfuehrer Dr. Brandt. (1) We shall receive the reports of Professor Schilling." Now, Professor Schilling is the man who has been sentenced to death for his malaria experiments at Dachau, is he not?

A. Yes.

Q. He was also part of your team of scientists, was he not?

A. We had nothing to do with Schilling at this lecture

Q. You only received his reports, that was all; was it?

A. That was the first time that the work of Schilling was mentioned to me at all. And Himmler explained at this meeting that Schilling had arrived at results on immunisation which attracted attention. This report was to be given to us so that the Entomology Institute could take cognizance of the things that Dr. Mar had done in malaria experiments with the anopheles mosquito.

Q. We will go on to the next entry in the diary, the 28th of January. Your own diary has a daily entry of all the details, but here is another extract: “Co-operation with Institute R, Dachau.” That is Rascher’s institute at Dachau, is it not?

A. Yes.

Q. Then the 29th of January, “With Hauptsturmfuehrer Rascher and Dr. Pacholegg to Dahlem.” Who was Dr. Pacholegg?

A. Dr. Pacholegg was an inmate whom Rascher was using to work with him.

Q. You know him quite well yourself, I take it?

A. I saw him perhaps two or three times.

Q. He was present at some of the experiments that you watched, was he not?

A. They concerned work on a styptic preparation, Polygal -

Q. Just answer my question. Dr. Pacholegg was present at some of the experiments which you watched, was he not?

A. He was a co-worker of Rascher’s. Whether he was there all the time, I do not know.

Q. If you refuse to answer my question I shall not put it again. We will continue further in your diary. Second February, CA-Work experiments, First pictures of living cancer cells. 21. Protectional vaccination for spotted fever by Professor Haagen. The protectional vaccination for spotted fever in Natzweiler goes on with good results.

Your Lordship, I have about half an hour of cross-examination.

THE PRESIDENT: We will adjourn now.

(The Tribunal adjourned until 9th August, 1946, at 1000 hours.)

FRIDAY, 9TH AUGUST, 1946

THE PRESIDENT: I think I said - at any rate, I will say it again - that the Tribunal will sit in open session tomorrow until one o'clock.

WOLFRAM SIEVERS RESUMED

CROSS-EXAMINATION BY MR. ELWYN JONES:

Q. Witness, yesterday I was taking you through extracts of your diary for 1944. Have you a copy of those extracts in your possession at the moment? I am referring to Document 3546-PS, which will be Exhibit GB 51.

I want to make it clear, my Lord, that the extracts which are in this document are only sporadic extracts taken from the diary relating to the medical experiments. There are numerous other entries the diary referring to other aspects of the activity of the "Ahnenerbe."

BY MR. ELWYN JONES:

Q. I had taken you yesterday to 2nd February. Now, will you look at the entries for 22nd February? You will see that you had a conference with a Dr. May, and there is an entry relating to co-operation with Dr. Ploetner and Professor Schilling. What work was Dr. Ploetner on at that time?

A. I cannot hear the German translation. I can hear now.

THE PRESIDENT: Have you heard the question?

THE WITNESS: Yes.

Dr. Ploetner was working together with Professor Schilling. This refers to a communication from Himmler dated 23rd January, according to which Schilling's reports were to be passed on to Dr. May. These reports actually were not passed on, because Schilling refused to collaborate.

BY MR. ELWYN JONES:

Q. Now turn to the entry for 25th February.

THE PRESIDENT: Is it a separate document, or is it in this book?

MR. ELWYN JONES: It is in the document book, my Lord, on Page 29.

BY MR. ELWYN JONES:

Q. On 25th February you make an entry regarding “the order of the RFSS about his work in Dachau in co-operation with Rascher communicated.”

“22nd March, 1830 to 2100 hours, SS Hauptsturmfuehrer Dr. Rascher ... preparation of the freezing experiments for the winter half-year 1944 to 1945”

You were at Dachau with Rascher on that date, were you not?

A. These are experiments which, as I already testified before the Commission, Himmler wanted to have carried out on account of the deaths from cold in the East. These experiments, however, could not be carried out at Dachau. This was reported to Himmler, and he ordered that they were to be carried out during the following winter. But they were never carried through because Rascher was arrested in April.

Q. For whom were you to carry out these experiments? Was it for the Army?

A. These experiments were to be carried out together with the Reichsarzt SS Grawitz.

Q. He was the SS Chief Surgeon, was he not - Grawitz?

A. Yes.

Q. So that these experiments were for the benefit of the Waffen SS, were they?

A. Grawitz personally refused to carry out these experiments and, on account of the continuous negotiations, they were not carried out in the winter of 1943-1944, as Himmler had wished. Grawitz maintained that, if these experiments were to be carried out, Herr Rascher should go to the front and work in the hospitals there.

Q. You have not answered my question, witness. For whom were these experiments being carried out? Was it for the Waffen SS?

A. The order for the execution of these experiments was never transmitted. The arrangements were made between the Reich Surgeon SS

and the Wehrmacht, but I do not know the particulars.

Q. If you please ... If you look at the next entry, 14th April, Station Rascher; stage of work; future work; orders for provisional carrying on; Hauptsturmfuehrer Ploetner introduced.

Now, that was the time when Rascher was arrested, was it not?

A. Yes, after Rascher had been arrested.

Q. And Hauptsturmfuehrer Ploetner succeeded Rascher, did he not?

A. Yes.

Q. And the experiments continued in Dachau and elsewhere? The removal of Rascher made no difference?

A. These experiments were completely different from those carried out by Rascher.

Q. You had attended some of the Rascher experiments, had you not?

A. I was at Dachau several times, yes.

Q. And you were there with Himmler on several occasions when Rascher was carrying out his experiments, were you not?

A. No, I never went to see Rascher at Dachau with Himmler.

Q. I want you to look at the Document 2428-PS, which will be Exhibit GB 582; it is an affidavit of Dr. Pacholegg of whom you spoke yesterday.

MR. ELWYN JONES: Your Lordship will find it at Page 20 of the document book, Page 25 of the English Document Book, Page 32 of the German Document Book.

BY MR. ELWYN JONES:

You will see this question and answer put to Pacholegg after he had described the experiments of the throwing of victims into cold water and of the experiments on prostitutes to recover... to restore the warmth of these people:

Q. Who would be present at such an experiment?

A. Heinrich Himmler and his staff generally witnessed these important experiments here at Dachau, or any new experiment. Standartenfuehrer

Sievers was always present with Himmler.”

A. That is not true.

Q. These experiments were hideous experiments, were they not, witness?

A. I have just said that I was not present at those experiments when Himmler was there.

Q. Were you ever present when Himmler was not there?

A. I saw two experiments, one I already mentioned yesterday, an experiment which I saw in part when Professor Hirth was present; the other was an experiment in the low-pressure chamber.

Q. I want you to turn to Page 30 of the German Document Book, Page 22 of the English Document Book, so that your memory may be refreshed as to. What sort of suffering these victims had to undergo under these so-called low-pressure experiments.

MR. ELWYN JONES: It is in the last answer on Page 22 of the English Document Book, my Lord.

BY MR. ELWYN JONES:

Q. Pacholegg states there:

“I have personally seen, through the observation window of a chamber, when a prisoner inside would stand in a vacuum until his lungs ruptured. Some experiments gave men such pressure in their heads that they would go mad and pull out their hair in an effort to relieve the pressure. They would tear their heads and faces with their fingers and nails in an attempt to maim themselves in their madness. They would beat the walls with their hands and heads and scream in an effort to relieve pressure on their eardrums. These cases of extremes of vacuums generally ended in the death of the subject. An, extreme experiment was so certain to result in death that in many instances the chamber was used for routine execution purposes rather than experiments. I have known Rascher experiments to subject a prisoner to vacuum conditions or extreme pressure conditions or

combinations of both for as long as thirty minutes. The experiments were generally classified into two groups, one known as the living experiment and the other simply as the 'X' experiment, which was a way of saying execution experiment."

Those were the sort of experiments that were being carried on by Rascher for the Luftwaffe, were they not?

A. These are low-pressure experiments, and I am hearing of the method of carrying them through here for the first time. The experiments which I witnessed -

Q. Just answer my question. Those experiments of that type were being carried out by the Luftwaffe ... for the Luftwaffe, were they not?

A. Yes.

Q. What part did Goering take in these experiments?

A. That is unknown to me, because the experiments at Dachau started in the year 1941 and I only learned of them after they had already begun. Connection with the Luftwaffe was established through the medical inspection offices of the Luftwaffe. To what extent Goering was informed of these matters, I do not know.

Q. Through whom was the connection with the Navy maintained as regards these scientific experiments?

A. That I do not know.

Q. And the Army?

A. That I do not know either.

Q. You see, you were the Director of this Institute of Scientific Research for Military Purposes. You must have had liaison with each of the arms of the services, did you not?

A. The channels with regard to these Luftwaffe matters went via Obergruppenfuehrer Wolff to General Milch.

Q. The Luftwaffe surgeon working on these Rascher experiments was Weltz, was he not? W-e-l-t-z, Oberfeldarzt of the Luftwaffe? That is so, is it

not?

A. That may be. Several gentlemen were mentioned whom I do not know. Official letters were also written by others on behalf of Rascher. But without data I can no longer recall names. I gave evidence on these matters only last year.

Q. Does the name Dr. Holzloehner convey anything to you? He signed the report on the Schilling experiments.

A. Yes.

Q. He was Professor of Physiology of the Medical School at the University of Kiel, was he not?

A. Yes. I mentioned before the Commission that Professor Holzloehner worked together with Dr. Rascher on experiments in Dachau.

Q. Was he the representative of the Navy in these experiments?

A. No, he was an Air Force doctor.

Q. Do you remember the experiments that were carried out for making seawater drinkable?

A. Yes. I have heard of them.

Q. They took place in - they started in May of 1944, did they not?

A. Yes, that maybe so; in May.

Q. And you remember that you attended a conference on 20th May, 1944, in the Air Ministry, to which members of the Navy and the Luftwaffe were invited; you remember that occasion?

A. I do not remember any conference in the Air Ministry.

Q. Do you remember a conference anywhere else where you had a discussion on these experiments to make sea-water drinkable?

A. Yes. It was a conference with Dr. Grawitz, Reichsarzt SS. In this connection, I must explain that after the arrest of Rascher, his successor, Dr. Ploetner, refused to carry through experiments on human beings. Only with the arrest of Rascher did the cruel way in which he experimented, and the

manner in which he exceeded his orders by far, come to light. Himmler said

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Q. Well - just a moment. I will test you on that in a moment, but I just want you to try to apply your mind to these experiments for making sea-water drinkable. Do you remember that there was a conference which representatives of the Air Force and of the Navy attended? That is all I want you to deal with at the moment. You can give your explanation later.

A. I have already said that I do recall a conference with Dr. Grawitz; and later a conference at Dachau with personnel of the Luftwaffe did take place. Whether personnel of the Navy were present I do not recall.

Q. But I want you to try to remember, because it is important, you see. These were experiments on sea-water. One would assume that they, that the Navy, would be interested. They were interested, and they sent a representative, did they not?

A. I do not think that a representative of the Navy was present.

Q. Do you know a Dr. Laurens, in connection with U-boats at Kiel, L-a-u-r-e-n-s?

A. No, I do not know him.

Q. Was it decided, in connection with the sea-water experiments, to use gipsies for the purpose of experiments?

A. In this connection, I must continue the explanation which I started to give a little while ago, because this is a very definite point. Dr. Ploetner refused to continue the experiments on human beings and Himmler did not demand them of him. Consequently, Grawitz received the order to devote himself to these matters. It is clear, therefore, that each experiment on human beings depended upon the willingness of the doctor. Grawitz said that the Luftwaffe, or, rather, a professor from Vienna, had requested that inmates should be made available, and it is possible that gipsies were mentioned in connection with the experiments to make sea-water drinkable. I know nothing about the details of the experiments. It was ordered at that

time that chemical and physiological experiments be carried through, and for this purpose the institute of Dr. May had to make two rooms available, for a period of three weeks, and in these rooms the Luftwaffe physicians worked. Otherwise, these experiments -

Q. You had a staff working in Dachau on these experiments consisting of a supervisor, three medical chemists, one female assistant, and three non-commissioned officers, did you not, in connection with these sea-water experiments for Grawitz?

A. Yes, that may be. That was under the supervision of Grawitz and his directives; how these directives were carried out, I do not know. We just commandeered the rooms, everything else was arranged by Grawitz. I do not know who worked there or whether personnel of the SS worked there with the Luftwaffe personnel from Vienna.

Q. Why was this staff working in Dachau? Why was Dachau chosen as the place for the scientific experiments for making sea-water drinkable? It was because you had the human guinea-pigs there, was it not?

A. I have already said that the Luftwaffe contacted Himmler for the purpose of obtaining inmates for these experiments; consequently, these experiments were arranged by Grawitz to take place in Dachau.

Q. I want you now to go back to your diary, Page 30 of the British Document Book, my Lord. You will see an entry for 14th April, "Political Department about escape of Pacholegg." This prisoner Pacholegg escaped, did he not?

A. Yes, at any rate he disappeared.

Q. Why did you go to the Political Department about it?

A. Because I had been in Vorarlberg together with Rascher and Pacholegg and I was accused of aiding Pacholegg to escape. All the circumstances of the arrest at the time when the Rascher affair was suddenly uncovered were at issue.

Q. You must have been extremely anxious when Pacholegg escaped; he knew a lot of the facts about your work, did he not? You must have been most anxious to secure his recapture.

A. I was mainly anxious about myself, for it is not hard to imagine what would have happened to me, since Pacholegg knew much - if it had been proved that I had favoured his escape, as was being asserted.

Q. If you look at the entry for 23rd May, you will see that you had a conference with the Reichsarzt SS Grawitz, Poppendieck and Ploetner. Then you had "Division as to the work of Dr. Schilling." Then, in the afternoon, you had a two-hour conference with Ploetner. That was about these experiments to make sea-water drinkable, was it not?

A. No, this concerns Ploetner's desire to discontinue his work with Schilling. Ploetner complained bitterly about the type of work carried on by Schilling and said that he could no longer work with him. Ploetner had been ordered there as a Waffen SS doctor.

Q. You yourself must have been feeling pangs of conscience at this time about the use of inmates, because your military situation was rather delicate, was it not?

A. Not only at that late date, but much earlier too. In view of the documents which are being submitted now and the accusations which are raised against me personally in that connection I am forced to make a personal confession, a fundamental statement, and I should like to ask the Tribunal for permission to do so now.

THE PRESIDENT: The Tribunal thinks that you may say anything you wish in that regard.

MR. ELWYN JONES: I would like to say, my Lord, that I have a number of other matters to put to this witness. If he cares

THE PRESIDENT: You can put them to him first.

MR. ELWYN JONES: If he cares to reserve his statement to the end, he can do so, but it might be more convenient to the Tribunal if he makes

his confession now.

THE PRESIDENT: Let him make it now, then.

MR. ELWYN JONES: If your Lordship pleases. Then will you make your confession to the Tribunal?

THE WITNESS: Before the Commission on 27th June I had to make factual statements in direct answer to the questions put to me, and I was repeatedly asked to be brief. I therefore had to limit myself to a statement of the relevant facts and to disregard my own person and my personal attitude to these questions. I note that in consequence my credibility has been doubted and it has been said that I personally participated in these incriminating experiments and did not wish to tell the truth. In view of this, I must, in my own defence, say the following:

I entered the Party as well as the SS as a leading member of a secret organization of the resistance movement and on its orders. Indeed, this position in the "Ahnenerbe" afforded us special opportunities of working illegally against the Nazi system -

BY MR. ELWYN JONES:

Q. Witness, when you say "resistance movement," I did not quite understand you. What is the "resistance movement" that you were leading?

A. The secret organization led by Dr. Hilscher, who in connection with events of 20th July was arrested and kept imprisoned by the Gestapo for a long time. I repeatedly protested against the experiments with the result that finally Himmler issued an order, also included in these documents, that resistance against these experiments would be regarded as high treason, and would therefore be punishable by death. Among other things, he told me that no one would ask me to carry out the experiments personally, and that he himself would have the full responsibility for them. Besides - as I myself read later - he said that such experiments on human beings had taken place repeatedly as part of medical research and were necessary, as was proved by

the famous experiments on human beings carried out in 1900 by Dieth and later by Golderger in America. Nevertheless my conflict of conscience -

MR. ELWYN JONES: If your Lordship pleases, I do not know whether the Tribunal wants to hear more of this material. It seems to me to be more an avoidance than a confession and I have numerous matters that I desire to put to this witness.

THE PRESIDENT: Mr. Elwyn Jones, the Tribunal thinks you better go on with your cross-examination. If the witness wants to add something at the end he may do so.

BY MR. ELWYN JONES:

Q. Now, just look back again at your diary. On 27th June you had a conference with SS Stabsfuehrer Dr. Brandt and SS Hauptsturmfuehrer Berg on the "creating of a scientific research station in a concentration camp. Information about conference with SS Obergruppenfuehrer Pohl." That was 27th June, 1944, you know. On 25th July you had a conference with SS Stabsfuehrer Maurer, Oranienburg, about "the use of inmates for scientific purposes." That was when you were leading the resistance movement. On 26th July "SS Hauptsturmfuehrer Dr. Fischer by phone. Order in accordance with conference with SS Stabsfuehrer Maurer, dated 25th July, 1944, to visit, as fast as possible, all concentration camps, in order to fix finally the persons."

In October - 21st October you were having another conference. "Research procedure - SS Sturmbannfuehrer Prof. Dr. Hirth. Reviewed release of Staff Surgeon Dr. Wimmer for duty and removal of the chemist, SS Obersturmfuehrer Martinek."

On 23rd October you were having a conference with Poppendieck. On that day you record in your diary, "Taking over of biological research by SS Stabsfuehrer Dr. Ploetner in Dachau."

Witness, do you remember your experiments on the quickness of coagulation of blood?

A. No.

Q. Did you take part in any such experiments?

A. I never participated in these experiments, because I am not a research man. But I remember this work very well. Dr. Ploetner, as I said, refused to carry out experiments on human beings. The means of quickening the coagulation of blood -

Q. I am sorry to interrupt you, but I would like you to say what you personally knew about these experiments. What was the form of them, for instance?

A. Experiments for quickening the coagulation of blood were conducted in the University Clinic of Innsbruck by Prof. Breitner, and in the University Clinic of Vienna by Professor Denk.

Q. What happened was that bullets were fired into prisoners, into concentration camp detainees. That was the form of the experiments, was it not?

A. This experiment was carried out by Rascher and not by Dr. Ploetner, and it came to light only after Rascher's arrest.

Q. I am not concerned with who carried them out. You knew the form they took, and that was that bullets were fired into detainees of concentration camps and then efforts were made to stop the flow of blood, that was the form of the experiments, is that not true?

A. That only came to light after Rascher's arrest. Before that he had asserted that these experiments, among others, were carried out at the hospital in Schwabing.

Q. Just look at Document 065, Page 8 of the English Document Book. That will become Exhibit GB 583, and it is an affidavit of Oswald Pohl, the head of WVHA. I want you to look at paragraph 4, Page 11 of the German Document Book, paragraph 4, in which he gives some testimony about you. I want to read only part of paragraph 4.

“Sievers came to find out from me about the possibilities for the manufacture of medicine. I mentioned the Deutsche Heilmittel GmbH in Prague which belonged to the German plants, managed by Oberfuehrer Baier, of my staff. I recommended Sievers to go to him. The medicine was manufactured later in Schlachters (Black Forest). Sievers told me the following: The ‘Ahnenerbe,’ of which he was the manager, had developed in Dachau a medicine which quickly brought coagulation of blood. It was enormously important for our Army because it prevented continual bleeding. It was the result of experiments in Dachau during which a prisoner was fired upon. A prisoner in Dachau played an important part in the discovery of this medicine.”

Now, those facts are true, are they not?

A. Yes, but the account is quite incomplete. When this discussion took place Rascher had already long ago been arrested, and it was known that he himself had carried out this experiment. Since it was Dr. Ploetner who had perfected this medicine, I told Pohl about the experiments in detail and submitted him the expert opinion of Professor Breitner and Professor Denck from Vienna. The picture presented in this document is completely misleading.

Q. Witness, Rascher is dead. It is convenient to cast all the blame on to him, is it not?

A. I am concerned with clarifying the facts and I can only say what is true and what I know exactly.

Q. Did you have anything to do with the experiments into the cause of contagious jaundice?

A. No, I do not know anything about them.

Q. I want you to look at Document 010 Page 4 of the English Document Book, my Lord, Exhibit GB 584. That is a letter, as you see, from Grawitz to Himmler. It is dated 1st June, 1943, and headed “‘Top Secret.’ Subject: Investigation into the cause of contagious jaundice.”

THE PRESIDENT: What is the signature?

BY MR. ELWYN JONES:

Q. That is the signature of Grawitz, is it not, the Reich Doctor SS and Police?

A. Yes.

Q. “Reichsfuehrer: The Fuehrer’s Commissioner-General, SS Brigadefuehrer Professor Dr. Brandt ...” - pausing there for a moment - he was the Reich Commissioner for Health and Sanitation, was he not?

A. Yes.

Q. “The Fuehrer’s Commissioner-General called on me with the request that I should assist him by placing prisoners at his disposal for research work into the cause of contagious jaundice, which he was furthering considerably.

The work has been carried out up to now by a medical captain, Dr. Dohmen, within the framework of the Research Institute of the Army Medical Inspectorate, with the participation of the Robert Koch Institute. It has up to now led to the conclusion, in agreement with the results of other German research workers, that contagious jaundice is not carried by bacteria but by a virus. In order to increase our knowledge, which is based up to now only on vaccination experiments from men to animals, the reverse way is now necessary, namely, the vaccination of the cultivated virus into humans. One must reckon on cases of death.

The therapeutic and, above all, the prophylactic results are naturally largely dependent on this last experimental step. Eight prisoners condemned to death would be required, if possible of fairly young age, within the prisoners’ hospital of Sachsenhausen concentration camp. I respectfully ask for a decision, Reichsfuehrer, as to:

1. Whether I may start the experiments in the prescribed form;
2. Whether the experiments may be carried out in the Sachsenhausen prisoners’ hospital by medical captain Dr. Dohmen himself.

Although Herr Dohmen does not belong to the SS (he is an SA leader and a Party member), I would recommend this as an exception in the interests of the continuity of the series of experiments and thus of the accuracy of the results.

The practical importance of the question raised for our own troops, especially in Southern Russia, is shown by the fact that this illness has been very widespread in the past years, both amongst us in the Waffen SS and the police and in the Army, so that companies have been reduced by 60 per cent for periods of up to six weeks.”

And then there follows some more comment about the illness, and that is signed by Grawitz. Grawitz was the vice-president of the German Red Cross, was he not?

A. Yes.

Q. I want to turn to Document 011 on Page 5 of the English Document Book - Exhibit GB 585. That is the reply of Himmler to the letter of Grawitz. It is dated 16th June, 1943. “Subject: Research into the cause of infectious jaundice,” and Himmler says:

“I give permission for 8 criminals condemned to death in Auschwitz (8 Jews of the Polish resistance movement who have been condemned to death) to be used for the experiments.

I agree to Dr. Dolmen carrying out these experiments at Sachsenhausen.

Like you, I am of the opinion that a real combating of infectious jaundice would be of untold value.”

And then it is signed by Himmler with a note at the bottom:

“SS Obergruppenfuehrer Pohl, Berlin. Copy sent with a request that note be taken.”

Those experiments into the cause of contagious jaundice were done for the Waffen SS and for the Army, were they not?

A. I am hearing of these things for the first time today. I know nothing about them and I cannot see what connection I can have with them.

Q. If you please, I want you to deal next with your experiments in spotted fever vaccine. Perhaps you may be a little more familiar with the nature of those experiments. Have you any knowledge of those? Professor Haagen might give you a clue.

A. Yes, Professor Haagen did carry out vaccinations against spotted fever at Natzweiler, at the request of the camp where this disease had broken out.

Q. Who delegated Haagen for this work?

A. He was not delegated at all. He was the hygienist at the University of Strassburg.

Q. But I asked you who delegated him for this work and not what his qualifications were for it.

A. As far as I recall, these experiments were carried through by Haagen on order of the Medical Inspectorate of the Wehrmacht and of the Luftwaffe.

Q. He was commissioned by Goering was he not?

A. I do not know who commissioned him on behalf of the Luftwaffe.

Q. Well, just look at your own letter on this subject, No. 008, the first document in the English Document Book - Exhibit GB 586. It is headed "Institute of Scientific Research for Military Purposes" dated 19th May, 1944. That was after Rascher had been removed from the scene. It is to "SS Obergruppenfuehrer and General of the Waffen SS Pohl, chief of the WVHA. Subject: Production of a new kind of spotted fever serum."

"Dear Obergruppenfuehrer:

Following our application of 30th September, 1943, you gave your authorisation on 25th October, 1943, for the carrying out of experiments with a view to producing a new kind of spotted fever serum, and transferred 100 suitable prisoners to Natzweiler for this purpose. It has been possible to carry out the experiments very satisfactorily so far with the help of the

Chief of Department D III, SS Standartenfuehrer Dr. Dolling, commissioned by you.”

Then there follow a number of sentences dealing with the medical aspects and scientific aspects of it. Then a few lines down:

“I therefore request you to detail persons to Natzweiler again for the purpose of inoculation. In order to obtain results which are as accurate as possible and can also be utilised for statistical purposes, 200 persons should be placed at our disposal for inoculation this time; it is also again necessary that they be as far as possible in the same physical condition as is met with among members of the armed forces. If imperative reasons should demand that 200 persons should not be transferred to Natzweiler for the experiments, the experiments could be carried out in a different concentration camp, although it would entail great difficulties. The overcoming of these difficulties would, if necessary, have to be accepted by the scientists employed - although the latter are at the same time very much tied to the University of Strassburg owing to their lecturing activities - as the results which will certainly be achieved are of the most far-reaching importance for maintaining health. As I have informed you, the direction for carrying out the experiments is in the hands of the Director of the Hygienic Institute of the Reich University of Strassburg, Prof. Dr. Haagen, Major in the Medical Corps and consulting hygienist to an air fleet, who was commissioned with this task by the Reichsmarschall the President of the Reich Research Council. In accordance with his instructions Dr. Haagen has to report about his work to the chief of the Luftwaffe Medical Services; in doing this he has to mention with whose support the work is carried out; i.e., first the Reich Research Council and secondly the SS. I request your decision which of the following is to be mentioned as the supporting authority of the SS;

(a) the Reichsfuehrer SS or

(b) WVHA or

(c) the Institute of Scientific Research for Military Purposes of the Waffen SS.”

Are you still saying that Goering did not commission Haagen?

A. Yes, I still maintain that. It says here, “Reichsmarschall, President of the Reich Research Council.” That does not at all mean that Herr Goering had knowledge of all these commissions of which tens of thousands were given in his name and on his stationery. The various authorized persons and offices concerned were competent in this respect, and that is evident from this document which lists the chief of the Luftwaffe Medical Services.

Q. The Tribunal has this document before it, so I am not going to argue with you on it.

THE PRESIDENT: Who signed the letter?

BY MR. ELWYN JONES:

Q. The letter is signed by you, is it not?

A. Yes.

Q. And you mentioned Goering specifically by name, not simply Reich Research Council. Now just look at Document 009 which refers to that letter of yours. It will be Exhibit GB 587. It is Page 3 of the document book. That deals with the question as to who is to have the honour of having taken the lead in these experiments. It is to the “Reichsfuehrer SS, Personal Staff.” Whose signature is at the bottom of that letter?

A. The personal adviser of the Reichsfuehrer, Dr. Brandt.

Q. It is dated 6th June, 1944, subject: Production of a new kind of serum against spotted fever.

“Dear Comrade Sievers: Thanks very much for sending the copy of your letter of 19th May, 1944, to SS Obergruppenfuehrer Pohl. I have informed the Reichsfuehrer SS, as the matter seemed to me to be sufficiently important. In answer to the question as to who is to be designated as the supporting authority of the SS, the Reichsfuehrer SS said that both the SS Economic Administrative Office (WVHA) and the Institute of Scientific

Research for Military Purposes should be mentioned. In addition, there is no objection to saying straight out that the Reichsfuehrer SS has also personally supported the experiments.”

Now what was your connection with the experiments in sterilisation? Witness, I will just remind you that they were of three kinds. There were the experiments with the juice of a plant, Caladium Seguinum, experiments with X-ray sterilisation, and Klauberg’s experiments on sterilisation without operation. I have no doubt you remember them?

A. No, I do not remember them. I do not know them.

Q. Do you know who was carrying them out?

A. No, I do not know.

Q. Look at Document 035, which will be Exhibit GB 588, Page 7 of your Lordship’s English Document Book. Page 8 of the German Document Book. That is a letter to the Reich Plenipotentiary for the Consolidation of German Folkdom, SS Himmler, Chief of Police, Berlin. That was another arm of the SS that was interested in these medical experiments, was it not? Did you hear my question?

A. Yes. The address is completely wrong. It should just read: The Reich Commissioner for the Consolidation of German Folkdom.

Q. I asked you whether it was another branch of the SS that was involved in these medical experiments?

A. No, it had nothing to do with it.

Q. I will just read the letter in that case. It has the initials of Himmler on the top, has it not, H.H.? You are extremely familiar with them.

A. Yes.

Q. The letter reads:

“I beg you to give your attention to the following statements. I have asked Professor Hoehn to hand this letter to you and have thus selected the direct path to you in order to avoid the slower official channels and to eliminate the possibility of an indiscretion, bearing in mind the enormous importance,

under certain circumstances, of the idea submitted. Prompted by the thought that the enemy must not only be conquered but exterminated, I feel obliged to submit the following to you as the Reich Plenipotentiary for the Consolidation of German Folkdom. Dr. Madaus is publishing the results of his research into sterilisation by medicaments (I enclose both works). In reading this article, I was struck by the enormous importance of this medicament in the present struggle of our people. Should one be able to produce as soon as possible as a result of this research a medicament which, after a comparatively brief period, would cause an unnoticed sterilisation in individuals, we would have at our disposal a new and very effective weapon. The thought alone that the 3 million Bolsheviks now in German captivity could be sterilised, so that they would be available for work but precluded from propagation, opens up the most far-reaching perspectives. Madaus discovered that the juice of the plant *Caladium Seguinum*, swallowed or injected, produces after a certain time, particularly in the males of animals but also in the females, a lasting sterility. The illustrations which accompany the scientific work are convincing. Provided that the idea expressed by me meets with your approval, the following path could be followed: (1) Dr. Madaus should not publish any more works of this kind (the enemy is listening too!). (2) Propagation of the plant (easily raised in greenhouses !). (3) Immediate experiments on humans (criminals!) in order to ascertain the dose and the duration of treatment. (4) The quickest possible discovery of the formula of the composition of the effective chemical body in order - (5) To produce the same synthetically if possible. I myself, as a German doctor and a retired lieutenant of the reserve in the medical corps of the German armed forces, undertake complete silence on the use to which the subject raised by me in this letter is to be put. Heil Hitler! Signed, Dr. Ad. Pokorny, specialist on skin and venereal diseases, University Doctor of Medicine.”

Do you know that subsequent to that greenhouses were erected and these plants were cultivated?

A. No, I do not know that. I only remember in this connection that this publication of Dr. Madaus, but without reference to this rather strange suggestion of Dr. Pokorny, was sent for comment to Dr. von Wuenzelburg, who was an authority on tropical plants, and who told us immediately that such a plant could not be raised here and was not even available.

Q. I appreciate the difficulties of growing these tropical plants in Germany, but an attempt was made to grow them, was it not?

A. I do not know whether an attempt was made.

Q. Grawitz, the Reich Surgeon of the SS, was in charge of these sterilisation experiments, was he not?

A. I do not know that either. It may be.

Q. Now, apart from these experiments, scientific murder, the "Ahnenerbe" was also used for political purposes, was it not?

Fifth column activity abroad, for instance? The penetration of the scientific thought of other countries as a method of political influence.

A. No.

Q. Just look at Document 1698-PS, will you? It is inserted before Page 20 of the English Document Book. There is just one page of it. 1698-PS will be Exhibit GB 589. It is an annual report dated 17th November, 1944:

"The Heritage of the Ancestors. Germanic Scientific Mission Outpost Flanders, SS Obersturmfuehrer (F) Dr. Augustin. Annual Report. The work is aimed at an intellectual deepening and broadening especially in the intellectual strata of Flanders and Walloony. In following the Germanic line which the SS alone represents; (1) The liberal-humanistic educational front must be invaded by winning over occupants of intellectual key positions. (2) To work against the great German Myths with the idea of the Great-Germanic Reich-community. (3) To promote the revival of the consciousness of German culture and German folkdom with the

exceedingly effective though neutrally camouflaged means of political propaganda, science, in view of the arrogant French assumptions of culture and the Flemish inferiority complex.”

Then in the next paragraph it says:

“Those strata of intelligence must be influenced which have not been reached by the official Press and propaganda. In university, college, and scientific policies, in the promotion of students’ interests and in the granting of scholarships, in the selection for college training and in the education and promotion of the talented, our work must take effect. To influence and control the holders of intellectual key positions (e.g. college professors, associations of lawyers, educators, students, artists), that is the nature of the task.”

THE PRESIDENT: Well, Mr. Elwyn Jones, are you submitting that this is a crime?

MR. ELWYN JONES: Yes, my Lord, I am submitting that it is an essential part of the machinery of this last instrument. First of all the perversion of science, secondly of using that perversion to infiltrate other countries. But I will not press the matter at all.

Q. Now, Witness, the “Ahnenerbe” was a component part of the SS, was it not?

A. I gave extensive evidence on this matter before the Commission. The Germanic Scientific Mission was subordinate to the SS main office. Dr. Augustin was appointed as expert for this work which in itself was only a continuation of the activity of many previous decades. I cannot believe that this amounts to fifth column activity or misuse of science for political purposes.

Q. I was asking you generally as to the “Ahnenerbe”; that is, was it a department of the SS? Look at Document 488-PS, Page 19A of the English Document Book. That is Himmler’s order with regard to the “Ahnenerbe.” I only want to draw your attention to the first paragraph:

“I, the undersigned Reichsfuehrer SS Heinrich Himmler, hereby certify that the Research and Teaching Society ‘Das Ahnenerbe’ and the ‘Stiftung’ (Ancestral Research Institute) are parts of my personal staff and thus are departments of the SS.”

The funds of the Institute for Scientific Research, they came from the Waffen SS funds, did they not?

A. I testified on both of these points before the Commission. Firstly, I said that the “Ahnenerbe” became an office in the personal staff of the Reichsfuehrer SS in 1942 and that its status as a registered association was not affected thereby. Secondly, I said that the funds of the “Ahnenerbe” came from the Ahnenerbe-Stiftung, from funds of the German Forschungsgemeinschaft, from fees of members, from funds of the Reich and from contributions of industry. Waffen SS and Wehrmacht funds were, as I stated before, put at the disposal of the institute only for military scientific experiments.

Q. The members of the “Ahnenerbe” that were carrying out these experiments were all SS men, were they not? I want you just to look at the nominal roll of the “Ahnenerbe.” Document D-962, which is the last document I am putting to you. It will be Exhibit GB 591. You see the names of Professor Dr. Walter Rust, SS Oberfuehrer Dr. Hans Brandt? And you see, as you go down the whole of that list, that with one exception they are all officers of the SS, are they not?

A. Yes, but with the difference that it does not show for what purpose it is drawn up, because it merely lists the SS leaders in the “Ahnenerbe” with reference to their marital status and their children. I have already said that approximately one half belonged to the SS, the other half not at all.

Q. There are over 100 names there of professors and German doctors connected with your work. They were all with one exception members of the SS, Were they not?

A. But they are not all scientists; the list also includes truck drivers. I have to go through the list before being able to answer the question.

Q. I do not want to go through the whole list, but they are all SS men, are they not, and they were all employed on the work of the “Ahnenerbe”?

A. No, indeed they were not. The list includes also honorary members who only had one research commission.

MR. ELWYN JONES: I have no more questions, my Lord.

THE WITNESS: May I now be allowed to complete my statement?

THE PRESIDENT: Perhaps we had better have the re-examination first.

RE-EXAMINATION BY DR. PELCKMANN (for the SS and SD):

Q. Witness, what was the purpose of the Ahnenerbe Institute? Was its purpose medical research or any other research? Please be brief in your answer.

A. Its purpose was to carry out research in the arts and sciences, as set down in the statute of the “Ahnenerbe.”

Q. Is it correct that the “Ahnenerbe” had about fifty different research commissions?

A. The “Ahnenerbe” had fifty different research branches, which were institutes. Beyond that it carried out more than one hundred extensive research projects.

Q. Did the Institute for Scientific Research for Military Purposes fall under the research projects and the various institutes which you have just mentioned?

A. It was a separate group within the “Ahnenerbe.” That may also be seen from the fact that it was financed -

Q. Please do not answer that now. I am now asking you only if it was one of the institutes which you mentioned. I shall put other questions and you will have a further opportunity of speaking.

A. No, it was not one of the institutes I just mentioned.

Q. But you heard that the Institute of Scientific Research for Military Purposes carried out experiments; is that correct?

A. Yes.

Q. How were the projects and the institutes of the “Ahnenerbe” financed?

A. The Ahnenerbe-Stiftung administered all the funds which it received, and made them available to the “Ahnenerbe.”

Q. Where did the funds come from?

A. From the means of the German Research Society, from membership dues, from funds of the Reich.

Q. What do you mean by membership dues? What members?

A. The participating members. Every German could become a member of the “Ahnenerbe.”

Q. Had they to be SS members?

A. No, anybody could become a member.

Q. You said that the money came from membership dues. Where else did the money come from?

A. From contributions of industry.

Q. And where did the funds for the so-called Institute of Scientific Research for Military Purposes come from?

A. Solely from Wehrmacht funds which had to be separately administered according to the regulations -

THE PRESIDENT: Dr. Pelckmann, I have got before me the commission evidence about all this. This is all stated in the commission evidence, is it not? I have it before me.

DR. PELCKMANN: Quite right, your Lordship, but the prosecution also raised the questions just now, and in such a way that the witness had no chance to give an exact reply.

THE PRESIDENT: It is not necessary to argue the point. Do you not think that you can make your re-examination shorter, in view of the fact that

the evidence was all given before the Commission and the Tribunal has this before it?

DR. PELCKMANN: Yes, my Lord.

BY DR. PELCKMANN:

Q. What percentage of members, or rather of collaborators and of those who were charged with the research projects for the “Ahnenerbe,” belonged to the SS?

[Wolfram Sievers] A. About one half.

Q. Were the rest Party members?

A. That was not a condition.

Q. Then were there collaborators who were non-political?

A. There were even some who were rejected by the Party and by the State for political reasons.

Q. Was Professor Seibt, a Norwegian, one of the members who worked there?

A. Yes, Professor Seibt received a research commission from the “Ahnenerbe,” after I had effected his release from a concentration camp.

Q. I have before me the original of your diary, parts of which were quoted to you in your cross-examination. 330 pages of this diary deal with the period about which you were questioned. The extracts, the parts which were presented to you, number only three pages. In view of this comparison, can you say that the matters which were discussed constitute only a very small fraction of the work carried on by the “Ahnenerbe”? Please be very brief.

A. Yes, I can confirm that, and I am waiting to make my statement in this connection. I did not preserve my notes for the purpose of concealing things which should be truthfully clarified in the general interests of all.

Q. Witness, if fragments of this diary are presented to you as they were presented to you in your cross-examination, are you in a position to give

exhaustive and correct explanations without going into the context and into the whole diary?

A. This is quite impossible because the size of the diary shows the considerable scope of my main work, and the comparative insignificance of the parts discussed here. And considering the period of time over which these matters extend, it is simply impossible to reconstruct them out of their context and to make complete and truthful statements on them. In my previous interrogations I again and again pointed this out, and asked for my secret notes and data so that I could give comprehensive accounts. For I myself, in view of my political attitude, was eager to uncover the wrongs done, and to aid in punishing them. But my requests were always in vain and my written application of 20th December remained unanswered. Relevant evidence has thus been passed over.

Q. That is sufficient, witness. I should like to mention just one example of the completely wrong picture which can result if the witness is limited to fragments of his diary. This is the entry on Page 103, Friday, 14th April, 1300 hours. "Station Rascher: Stage of work, future work, orders for provisional carrying on - Dr. Ploetner initiated." The sentences which follow are not included in the extract. Now, witness, would you read those sentences and comment on them? Does this entry show, as the prosecution maintains, that Dr. Ploetner continued Rascher's work?

A. The entry shows clearly that Dr. Ploetner did not continue Dr. Rascher's experiments on human beings. On the basis of these notes I could now develop a comprehensive picture, but the time at my disposal is too short.

Q. Please make your comments.

A. In a dramatic way Dr. Ploetner described -

THE PRESIDENT: We do not want drama, we want the entry.

DR. PELCKMANN: Unfortunately, I cannot read it, my Lord, because there is only one copy of the document.

THE PRESIDENT: Has not the witness got the document before him? Why cannot he read it, then?

THE WITNESS: Yes, I will read it.

“Hauptscharfuehrer Dr. Ploetner initiated Most important task: Polygal tests.” That was the coagulating agent.

DR. PELCKMANN: Please give your comments when you have read the entry.

THE WITNESS: Order for carrying on of work - Putzengruber. Policesergeant Nett reports that production of Polygal at Schlachters is assured for three months. Feix reports on production experience and first results at Schlachters. In Schlachters the accounting system is to be set up by Gau economic adviser. Purchase of machines.”

DR. PELCKMANN: That means then that Dr. Ploetner was initiated?

THE WITNESS: Initiated into all the administrative and economic matters connected with the manufacture of Polygal.

DR. PELCKMANN: Now you were going to describe what happened at that time.

THE WITNESS: Yes Dr. Rascher had begun the development of Polygal, but the medicament did not come up to expectations. Dr. Ploetner who -

THE PRESIDENT: The question that you put to him was: “Does not this entry show that Dr. Ploetner did not continue the investigations of Dr. Rasher?” How does the entry show it? He did not tell us how the entry shows it.

DR. PELCKMANN: Your Lordship, I did not, as far as I remember, put the question in that way. I wanted to learn something quite different from this witness. May I please clarify this point after the witness has read these remarks and his memory has been refreshed?

THE PRESIDENT: Dr. Pelckmann, in my recollection and in the recollection of the other members of the Tribunal the question you put was:

“Does not this entry in your diary show that Dr. Ploetner did not carry out the work of Dr. Rasher?” That was the question which you put. And we want an answer to it and no other answer.

DR. PELCKMANN: Then I did not express myself correctly, your Lordship.

BY DR. PELCKMANN:

Q. I wanted to know. if now, after reading this entry, your memory was refreshed as to the happenings at that time?

A. Yes.

Q. Then please describe them.

A. The activities of the institute -

THE PRESIDENT: Wait a minute. Dr. Pelckmann, in the first place you realize, or you should realize, that the object of re-examination is to make clear or to contradict anything which has been put in cross-examination, and that is the only purpose of re-examination. In the second place, the Tribunal does not assume, from the fact that the witness has been cross-examined to show that certain brutal and illegal experiments were made by this institution, that the institution did nothing else, and we do not propose to sit here for a prolonged time to hear everything else that this institution did. The only object of your redirect examination should be to contradict the fact that illegal experiments were made, or to clear up any doubts which may arise upon those illegal experiments; not to show us that they did other things.

BY DR. PELCKMANN:

Q. Witness, were further inhuman experiments carried out after Rascher's arrest, as far as you know?

A. No.

Q. No?

A. No. Dr. Ploetner, as I have already testified, expressly refused to carry them out.

Q. Did you, after that time, hear of any other inhuman experiments?

A. No, not in connection with the Institute of Scientific Research for Military Purposes, of which I had inner knowledge.

Q. You say that you had inner knowledge of the Institute of Scientific Research for Military Purposes. What personalities of the SS had insight into these experiments?

A. Only those who had been charged with these matters by Himmler personally, and there were very few

Q. How many approximately? Five or ten more or less do not matter.

A. At a high estimate, ten to twenty.

Q. Were these directives classified “secret” or “top secret”? Did they fall into the category “Secret Military Matter” or “Secret Reich Matter”?

A. Yes, they fell into these two top secret categories.

Q. Can you therefore from your own knowledge say whether you consider it possible that the mass of the SS men knew about these things?

A. It is quite impossible that they knew or could have known about these things.

Q. Do you recall that Freiherr von Eberstein was quite indignant when he learned of Rascher’s experiments and horrified that anything like that could happen? Have you any personal recollection of that?

A. Yes; I remember that because I had to report to him personally in this matter. He was extremely angry during this conversation and mentioned things which he had heard in connection with the arrest of Rascher, and which shocked me, too, very deeply. In his excitement he began to accuse me and was then very astonished to hear that Himmler alone had been in closest personal connection with Rascher and that all instructions had come directly from Himmler.

Q. That is sufficient. Thank you.

THE PRESIDENT: Now, can you conclude your ... the observation you want to make in five minutes?

THE WITNESS: Yes, not longer.

THE PRESIDENT: Very well, go on, then.

THE WITNESS: In the cross-examination I was accused of having naturally had no personal misgivings whatsoever regarding these experiments on human beings. I must contradict this emphatically. My conflict of conscience was very great and I was not appeased by the assurances which, as I mentioned earlier, I had received from Himmler. I therefore spoke with the leader of our secret organization, and we came to the conclusion that further resistance would, in the first place, have cost me my head, since an open demonstration would have been the only choice left to us. Secondly, moreover, the people affected by the experiments would not in any way have been protected or helped thereby. These experiments would have been carried through one way or another in any event.

But wherever possible I did secretly what no other person would have done, or dared to do. I prevented, through silent sabotage, whatever could possibly be prevented. My repeated offers to elaborate on this point with the help of my secret data, and records, which go into several hundred pages, as Dr. Pelckmann has shown, were in vain. Even now, time does not permit me to give a more comprehensive picture of the background of events and of the events themselves. I personally rejected these experiments and did not support them. I played a role similar to that of a syndic at a university, who must be at the disposal of all professors and heads of institutes, alike in all financial, economic and administrative affairs. Therefore, I repudiate doubts cast on my credibility and my personal attitude. The documents submitted show exactly what I said about these matters in my interrogations before the Commission, which Dr. Pelckmann again mentioned just now. If, concerning my alleged illegal activities, my credibility is put in doubt, then the leader of the secret organization, Dr. Hilscher, who is now in Nuremberg, is at the Tribunal's disposal in this matter. Thank you.

THE PRESIDENT: The Tribunal will adjourn.

(A recess was taken.)

MR. ELWYN JONES: Your Lordship, I have three brief documents to put in on the SS case. The first is Document 4043-PS, which I hand in on behalf of the Polish Delegation. It will be Exhibit GB 592. It sets out the names of the 846 Polish priests and monks of the Polish clergy murdered at Dachau concentration camp.

THE PRESIDENT: Is that a State report or what??

MR. ELWYN JONES: It is an affidavit by a Polish priest, attaching the names of the priests to his statements; the names appeared in a Polish publication, a Polish newspaper.

I see that it is a statement on oath by the undersigned Roman Catholic priest, which is as follows. I am wrong in saying that it is a statement on oath; but it does attach a list of the priests from a publication of the section "Press and Culture" which was published in the Catholic weekly, Polska Prodena. If the Tribunal is uneasy about the document, I shall not press it. I am asked by the Polish Delegation to submit it.

If your Lordship pleases, Document 007, which will be Exhibit GB 592, in place of the last document, that is an order from Himmler to the Higher SS and Police Chief, Ukraine, Kiev, dated 7th September, 1943. It reads:

"Dear Pruetzmann, General of the Infantry Stapf has special orders with regard to the Donetz area. Get in touch with him immediately. I order you to co-operate as much as you can. The aim to be achieved is that when areas in the Ukraine are evacuated, not a human being, not a single head of cattle, not a hundredweight of cereals and not a railway line remain behind; that not a house remains standing; that not a mine is available which is not destroyed for years to come; that there is not a well which is not poisoned.

The enemy must really find completely burnt and destroyed land. Discuss these things with Stapf straight away and do your absolute best. Heil Hitler. Yours, Himmler."

There is a note attached to it: "SS Obergruppenfuehrer Berger has received the copy with the request that the Reich Minister for the East be informed." There are copies to the Chief of the Regular Police, Chief of the Security Police and SD, SS Obergruppenfuehrer Berger; Chief of the partisan-combating units, copies sent with a request that they be noted.

Finally, Document 022 refers to instructions of Himmler.

THE PRESIDENT: Who was the Reich Minister at the time?

MR. ELWYN JONES: As I understand it, my Lord, it was Rosenberg.

Then, finally, there is Document 022, which will be Exhibit GB 593. That is an instruction of Himmler dated 10th July, 1943, to the chiefs of units for combating partisans, the Higher SS and Police Chiefs in the Ukraine, Higher SS and Police Chiefs in Russia, Central Sector.

The first paragraph:

"The Fuehrer has decided that the whole population has to be evacuated from partisan-ridden territories of the Northern Ukraine and of the Central Russian sector.

2. The whole male population fit for work will be directed to the Reich Commissar for the Employment of Labour according to regulations which are yet to be laid down, but under the conditions of PWs.
3. The female population will be directed to the Reich Commissar for the Employment of Labour for work in the Reich.
4. Part of the female population and all children who have no parents will be sent to our reception camps.
5. The evacuated territories are to be taken over and run by the Higher SS and Police Chiefs, as much as possible in accordance with an arrangement still to be made with the Reich Minister of Food and with the Minister for the Occupied Eastern Territories. They are to be planted partly with Kok-Sagys, and as far as possible agricultural use is to be made of them. The camps for children are to be established on the edge of these territories in order that the children may be available as labour

for the cultivation of Kok-Sagys, and for agriculture. Final proposals are to be submitted to me as soon as possible. (Signed) H. Himmler.”

There are the names of Berger and Backe below.

DR. PELCKMANN: Your Lordship, may I put a formal -

THE PRESIDENT: Just one minute ... Yes, Dr. Pelckmann.

DR. PELCKMANN: May I put a formal question with regard to the proceedings? The witness is still in the courtroom. Are these documents to be submitted to him?

THE PRESIDENT: The Tribunal has some questions to put to the witness.

DR. PELCKMANN: If these documents are not put to the witness, then I should like to object to their being used, for the reason given before, that the submission of evidence by the prosecution is closed.

THE PRESIDENT: The Tribunal has already ruled that new documents may be put in in this way.

DR. LATERNSEER (counsel for the General Staff and the OKW): Mr. President, may I be permitted to put one question to this witness to clarify a name which he used?

Witness, you mentioned the Institute of Scientific Research for Military Purposes. Is that the complete name of the institute? Will you give the complete name?

THE PRESIDENT: Will you repeat your answer?

THE WITNESS: Institute of Scientific Research of Military Purposes of the Waffen SS and Police.

DR. LATERNSEER: Thank you.

CROSS-EXAMINATION OF THE WITNESS WOLFRAM SIEVERS BY THE TRIBUNAL (Mr. Biddle):

Q. Witness, you said that the Luftwaffe contacted Himmler for getting inmates from the concentration camps. Who in the Luftwaffe made that contact?

[Wolfram Sievers] A. I did not say that the Luftwaffe attacked concentration camps on Himmler's orders.

Q. Wait, witness, wait, listen to the question. I did not suggest that you said that. I said that you said that someone in the Luftwaffe had made a contact with Himmler in order to get inmates from the concentration camps. Did you say that?

A. No, I did not say that either. But Dr. Grawitz, the Reich Medical Officer of the SS, informed me that the Luftwaffe - I do not know which department of it - had applied for the sea-water experiments to be carried out and had asked that detainees be made available for that purpose.

Q. You mentioned the name of General Milch in your testimony. What connection, if any, did General Milch have with any of these experiments?

A. Only with the high altitude and the sub-cooling experiments which were started in 1941 and carried out by medical officers of the Luftwaffe, that is, by Professor Holzloehner, by Captain of the Medical Corps Dr. Rascher, by Captain of the Medical Corps Dr. Zinke, and by a third gentleman of the Aeronautical Research Institute at Adlershof, whose name I have forgotten -

Q. And what connection did General Milch have with these experiments? Did he make the arrangements for them?

A. No, as far as I know, the technical arrangements were made by the Medical Inspectorate of the Luftwaffe.

Q. What connection did General Milch have with this matter?

A. That is apparent from the exchange of letters between General Field-Marshal Milch and Obergruppenfuehrer Wolff which were shown to me here in previous interrogations.

Q. You, then, have no other knowledge about General Milch except from the correspondence that has been submitted.

A. No, I do not know more than that.

Q. In how many camps besides Dachau were there experimental stations or stations for biological research?

A. That I cannot say, because I only know of the experiments of Rascher and Hirt, of no others, that is, of such experiments being conducted in the sphere of the Reich Medical Officer SS. Of these nothing could be learned, because they, too -

Q. You do not know?

A. No.

Q. One last question. You said that after Dr. Rascher's arrest there were no more illegal experiments that were connected with the Institute. Do you know of any others that were not connected with the Institute?

A. That is connected with the previous question. One did hear, for instance, of the work of Professor Schilling; but I never became acquainted with it in detail.

THE PRESIDENT: The witness can retire.

Submission of Documents

TUESDAY, 20TH AUGUST, 1946

THE PRESIDENT: Dr. Pelckmann.

DR. PELCKMANN (associate counsel for the SS): Your Lordship, I refer first to the transcript on the examination of witnesses before the Commission, which, no doubt, the Tribunal has. There were 29 witnesses. I begin with the presentation of documents. I have divided these into groups so as to be able to finish the presentation very quickly. First, Documents Nos. 1, 2, 3, 5, and 84 in one group. The first three documents deal with the so-called ideals” of the SS: it states the ideals of the confraternity. Something is said about kinship (Sippengemeinschaft) and such-like and proof is given that this was the basis of the training.

Document 5 says that the members of the General SS carried out their normal civil occupations and the SS service was only supplementary.

Document 84 makes it clear once more that the SS was a branch of the Party and in contrast to the other SS formations, which I shall present later, was represented by the NSDAP in case of complaints.

In Document 6 (Exhibit USA 441), which I submit once more, the principles of the SS are again referred to, and for the individual man these were quite decent requirements: sanctity of property, the precept of thrift, etc. I must present that briefly because it is important for my final plea.

Documents 4 and 103 belong together. Document 4 shows that the SS men swore an oath which did not differ from that of the old civil servants, but did differ from that of a soldier, for, strangely enough, the soldier swears absolute obedience but the SS man does not.

Document 103 deals with the fact that this oath was made in God's name, and Himmler says in reference to that: "I consider a person who does not believe in God presumptuous, to be suffering from megalomania, and stupid. Such a person is not suitable for us."

Document 84, which I just quoted, shows once more that the SS *Verfuegungstruppe* (Emergency troops) and the SS *Totenkopfverbände* (Death Head's Units) did not belong to the General SS. They did not have any civil occupation; they were State employees, and in case of complaints against these members or these formations, that is, the SS *Verfuegungstruppe* or the *Totenkopfverbände*, the complaint had to be made against the Ministry of the Interior; this is very important for the concentration camp question.

Then there follow Documents 8, 9, 10, 11, and 12. The *Waffen SS* was created during the war. Its members were instructed to fight decently and chivalrously and not make themselves guilty of punishable actions against the civilian population in enemy countries, and to respect the prisoners of war and the fallen.

For the members of the *Waffen SS* - this is shown especially by Document 12 - the basic rules of the SS apply only when the individual *Waffen SS* men were at the same time members of the General SS. For example, that is true even for the so-called marriage order. This ideology is not applicable to the *Waffen SS* men, so that even the voluntary *Waffen SS* men were not subject to the special laws of the SS.

Documents 13, 14, 15: The SS is accused of the legal plundering of the occupied eastern territories. These documents show that the laws in this respect were issued by the Trustee for the Four-Year Plan, Goering, or the Minister of the Interior, Frick. The Reich Commissioner for the Consolidation of German Nationhood and the Office for Racial Germans (*Volksdeutsche Mittelstelle*) were entrusted with the resettlement and bringing back of Germans. This is shown by Documents 15, 16, 17, 18, 19,

20, 22 and 23. Documents 25, 26, 30, 33, 34, 40, and Exhibit USA 674 I submit as evidence that the Civil Service law, the emergency labour regulation, the constitution for German students, the agreements between the Reichsfuehrer SS and the Reich Youth Leader, the Reich Labour Leader and the Reich Finance Minister were coercive measures which made it possible for Germans to be allocated to the General SS, the Waffen SS, Verfuegungstruppe SS and the SS Totenkopf units. Even the woman Police Staff assistants were forcibly placed in the SS Women's Auxiliary Corps.

Documents 28, 30, 31, and 32 can be taken together. They give a number of examples of the kind of compulsory service just mentioned or of men being drafted into the General SS, the Waffen SS, and the SS Verfuegungstruppe.

Documents 29, 36, 38, and 39 show that citizens of foreign n States, in so far as they were of German descent, were not forcibly drafted into the Armies of their respective countries, but into the Waffen SS. This was on the strength of State agreements.

The documents show further how whole groups comprising many or few people were forcibly placed under SS jurisdiction without being SS members. They continued under the name of their old occupation but with the addition of "SS."

Document 4 treats with the question of the so-called patron members, which has still not been settled by the prosecution. These patron members were only linked with the SS from the financial standpoint. Their subscriptions flowed into the coffers of the General SS membership as a so-called patron member in no case meant that a person belonged to the active SS.

Documents 48, 53, 54, 57, 59 and 60 deal with the more or less great pressure exerted on police officials to join the SS. The request to join was worded: "I therefore expect that the person whom this concerns will join ..."

There were continuous inquiries demanding to know whether the person had joined. Even members of the regular police, the Ordnungspolizei, were also more or less forced to join. Court officials, doctors, young officers, and policemen were also pressed to join the SS. On the other hand, Documents 52 to 55, and 56, show that the members of the police who joined the SS in this way did not perform any SS service. They were not obliged to take SS training either. The only sign that they were members of the SS was that when they were promoted they were also promoted in the SS.

Finally, in Documents 65, 66, 67, and 68, I have to deal with purely external SS designations in police units. The battalions and regiments, as well as fire-fighting police units, that is, units of the fire service, all received the designation SS as an external sign of recognition, as it says in the decrees. As an example, I refer in this document to the Second Gendarmerie Battalion which became the Second SS Gendarmerie Battalion; or the police regiment "Alpenland" which became the SS police regiment, and so forth.

The documents show further that in spite of all this, these SS police regiments remained with the Ordnungspolizei, that they received their equipment from the Ordnungspolizei, and everything else was attended to by the Ordnungspolizei. The individual policeman of these regiments did not become a member of the General SS nor a member of the Waffen SS because his unit had this SS designation.

Finally, the following documents deal with the question: to what extent did the members of the SS know of and will the crimes with which the prosecution charges them?

Documents 70, 71, 73, 75, 76 and 79 are taken together. Hitler was constantly making speeches in which he simulated his unchangeable will for peace. The Reich Cabinet also stated that it wanted to preserve peace at all costs. The paper *Das Schwarze Korps*, believing these statements, wrote

that the SS did not like war a statement made in January, 1937, and it goes on to explain this antipathy to war.

Documents 77 and 78 show that in this connection even outsiders like the Austrian bishops and the English Government were also deceived in 1938. The German English Peace Declaration of 30th September, 1938, is well known. It expresses the will of both peoples never again to wage war against each other.

In Document 80, containing some official statements on the nature and character of the SA and the SS, it is shown that neither the SA nor the SS was armed, neither were they given any training with arms or trained otherwise for military purposes. I am asserting this only for the case of the SS.

The supplement to Document 81 says that on the 16th April, 1934, the German Government offered to prove to the English Government that the SS and the SA had no arms and were not trained for any military purposes. This was true not only outwardly but it was also the case within the SS. This is shown by SS Document 82. It is the secret Fuehrer Decree of 17th August, 1938, which stated that the SS as a political organization of the NSDAP is not a military organization, it needs no training and it is unarmed. It states further in this decree that the members of the General SS as unarmed SS men are at the disposal of the Wehrmacht in case of war, in accordance with the provisions of the National Defence Law, and not of the Waffen SS.

Document 92 is a small example of how the masses were deceived about peace aims. According to this - it is a law of the Reich Cabinet - any participation in the Spanish Civil War in any form whatever is subject to punishment by imprisonment, although at the time thousands were fighting in Spain on Hitler's orders.

Documents 87, 88, 90 and 99 show the following:

Through the law against slander, the law against defeatism, and the prohibition of listening to the foreign radio, any spreading of the truth - and I take as a single example the spreading of rumours on concentration camps - became in fact impossible. This policy was rigorously applied during the war. That is proved by Document SS-98. It is the well-known speech of Himmler in Posen in 1943 Document PS-1919. I refer only to one sentence of Himmler which says that whoever is disloyal, be it even in thought, will be dismissed from the SS; also that care will be taken that he will disappear from among the living.

On the Jewish question, there are Documents 93 and 95. In February, 1934 the Reich Minister of the Interior, Dr. Frick, declared before the Diplomatic Corps that the only intention was to reduce the activity of the Germans of Jewish faith in proportion to other Germans. It was expressly denied that these citizens would be forced to emigrate.

The other document, No. 95, proves that even in the year 1942, when the mass destruction of Jews was under way, a law provided for the creation of a settlement in Theresienstadt for Jewish citizens. This, consciously or unconsciously, served to deceive the public about this extermination, and it deceived the SS members too.

The events of the 30th June, 1934, are dealt with in Documents 83, 100, 74, 105 and 106. The public did not learn the truth. Hitler was thanked for dealing with the situation in telegrams sent by the Reich President von Hindenburg to Hitler and Goering. These telegrams were published in all papers. In his speech of 13th July, 1934, Hitler described in great detail the preparations Roehm had made to overthrow the Government, how he had been in contact with foreign countries, and how an SS Fuehrer, who was mentioned by name, had prepared an attack on his life. The situation was presented as so urgent - that only immediate action, without judicial proceedings, could do any good. Moreover, this speech gave assurance that illegal excesses committed during this action would be punished by law.

Document 104 gives only a sketch to supplement the testimony of the witness von Eberstein. It clarifies the actual position of the Higher SS and Police Fuehrer.

Then I have Document SS 107, which unfortunately I was able to give to the prosecution only this morning, as I have just found it in the collection of decrees. I ask that it be accepted. It is a decree of the Reichsfuehrer SS of 27th August, 1942. This decree expressly states that the main office of the Reich Commissioner for the Consolidation of German Nationhood (Volksdeutsche Mittelstelle) is not an SS main office but a State organization. This question is important for the responsibility of the SS in the so-called Germanisation programme. This document has not yet been translated. I shall attempt to have translations made as quickly as possible.

That is my presentation of documents, your Lordship.

Now I come to the affidavits. For the examination before the Commission and especially for the examination of the five witnesses before the Tribunal, I was able to bring only witnesses, who, because of their high positions, could give the Tribunal a comprehensive survey of specific questions. With the affidavits the defence had to attempt to present as large a number as possible of statements on the whole evidence of the Indictment, in order to give the Tribunal an idea of how much the broad masses of the small people knew and how they behaved. I have attempted to do so by means of separate affidavits on certain points and by summarising a large number of statements on certain groups of questions and subjects.

I submit first 114 single affidavits. They are SS Affidavits 1 to 60, 63, 64, 68 and 69 and 71 to 118. Affidavit number 70, given by two SS members, contains all the contents of the affidavits of the internees of one camp, Camp 73. It refers, to almost all of the points of the Indictment against the SS.

Then I submit the digest of 136, 213 individual affidavits and collective affidavits. To these I have given the numbers 119 to 122.

Finally, the digest of a questionnaire which was sent to all camps, that is, a statistical report under Number 123.

I regret that I cannot give the Tribunal today the texts of these affidavits, especially of the individual affidavits, in English. As far as I know, translations into French are available for all affidavits, and I shall attempt to submit the English translations as soon as possible. I am now submitting the French translations.

I then submit SS affidavits of Dr. Morgen, 65 to 67.

I personally consider SS Affidavits 64, 68, 69 and 70 extremely important. I have -

THE PRESIDENT: Which are the ones you said were very important?

DR. PELCKMANN: 64, 68, 69 and 70.

THE PRESIDENT: Yes. Go on.

DR. PELCKMANN: I have especially asked for their translation. I have not submitted any summaries of them to the Commission as they must be presented in their entirety. No. 70 is as important for the question of legal hearing of the broad mass of SS men as the presentation of the digest of the 136,000 affidavits. In order to shorten my presentation I have arranged the individual affidavits in groups and I hope that by giving the numbers I have made it possible for the Tribunal to obtain a general view of the various groups.

Group I contains the affidavit showing that the SS was a single group bound by oath in which no distinction can be made as to its composition or as to time. This is asserted by the Trial Brief on Pages IX and X in the German version. Moreover, that is asserted in the transcript on Pages 1607 and 1608 of the 19th and 20th December.

SS Affidavit 116, Petri, proves that the purpose of the Fuehrer Order of 17th August, 1938, Exhibit USA 443, was not to form an organic connection between the General SS; Totenkopf units and

Verfuegungstruppen but, on the contrary, to separate these various branches of the SS.

Now I sum up a group of affidavits, 13, 52, 49, 48, 42, 56, 55, 45, 54, 46, 97, 98, 53, 50, 51 and 38. I might remark, your Lordship, that a translation in English of these affidavits and also of No. 52 has already been made and is being distributed. I beg your pardon, it is only in French, your Lordship. With these affidavits I wish to prove the following: certain groups are charged in the general Indictment of the SS. They cannot be brought under the concept of a common conspiracy if only for the reason that they had only a very temporary relationship to the SS or none at all. They are the patron members of the SS, the Bauernfuehrer (peasant leaders), the so-called Ehrenfuehrer (honorary leaders), the SS Frontarbeiter, the so-called SS-Eisenbahnbaubrigaden (railroad construction brigades), the Postschutz (postal protection), the national political education institution. Furthermore, the Fuehrer des Reichskriegerbundes (leaders of the Reich Soldiers' League) that is something similar to the Stahlhelm - the SS Sportgemeinschaften (sport associations), also the Reiter Groups which were transferred to the SS - the so-called Reitersturme (troopers) which had exactly the same characteristics and history as the SA Reitersturme - and finally the students who were taken into the SS on a compulsory basis.

The following two affidavits, 118 and 101, deal with the Lebensborn organization. They prove that the tasks of this organization were to support families with many children and to care for mothers and children, including illegitimate children and unmarried mothers, but they did not afford the opportunity for the illegal begetting of children and the taking away of children for the use of the State as the prosecution has asserted.

SS Affidavit 47 is a valuable supplement to the testimony of the witness Liebrich, an SS doctor, before the Commission. It proves that doctors were taken into the SS exclusively on the basis of their professional ability. Leading doctors and leading authorities were taken into the SS to raise its

prestige. It is asserted that the activity of the SS doctors of the General SS was also recognized by foreign countries, and examples of international authorities were given.

SS Affidavits 95 and 96 prove that the SS woman auxiliaries were neither members of the SS nor sponsors. These girls carried out the same work as the Intelligence and Staff assistants in the Wehrmacht and must not be confused with the female supervisors in the concentration camps for female prisoners.

There follows a large group of affidavits on the question of Germanisation, a lengthy and very difficult accusation by the prosecution. They are Affidavits 2, 112, 114, 113, 110, 115, 44, 71, 73, 75, 77, 79, 11, 43, 72, 76, 76, 78, and 80. May I add at this point that in putting such a large group together care has been taken to see that these individual affidavits are not cumulative. The affidavits supplement each other and thus give a complete picture of the points of the Indictment and the defence. These affidavits prove that the Volksdeutsche Mittelstelle and the so-called Staff Main Office of the Reich Commissioner for the Consolidation of German Nationhood - I repeat for the interpreters - Volksdeutsche Mittelstelle and Stabshauptamt des Reichskommissars für die Festigung des Deutschen Volkstums - were not SS agencies but were State authorities. That is the formal side of the defence.



Soldiers of the 13th Waffen Mountain Division of the SS "Handschar" (Croatian No. 1) in training, studying a brochure entitled "Islam and Judaism", around summer 1943.

The material side is found in another part of these documents just quoted.

The SS was not entrusted with evacuation measures, Germanisation measures and the settlement of Germans in the occupied territories. SS Affidavit 89 proves that the Chief of the Prisoner-of-War Department, even after Himmler's appointment, was purely a Wehrmacht office.

When Himmler was appointed chief of the Prisoner-of-War Department nothing was changed in the organization of the Prisoner-of-War Department. The SS did not influence in any way the treatment of prisoners of war.

I will now differentiate between the documents in the next group II, and sum them up. They deal with the assertion of the prosecution that there had been organisational unity between the SS and the police. This unification is supposed to have taken place under the so-called "Higher SS and Police Leaders." That assertion of the prosecution is on Pages 12 and 16 of the German Trial Brief. It is in the transcript of the 19th and the 20th December. The following affidavits will refute this statement: 86, 87, 88 and 10.

I will ask the Tribunal to pay special attention to the explanation in Affidavit 87. These affidavits prove that the Higher SS and Police Leaders within the Reich had no authority to give orders to the Regular Police and to the Security Police. On the contrary, those police branches received their orders from their respective main offices, and they were given directly and not through the Higher SS and Police Leaders.

The presentation given by Dr. Best in Document PS-1852 does not give the true facts and is wishful thinking.

The affidavits taken together in group 3 contain material to refute the assertion of the prosecution that the SS was trained in the doctrine of the Master Race and in racial hatred, and that it prepared for war mentally and

physically. This assertion also appears in the Trial Brief on Page 6 and in the transcript of the 19th and 20th of December.

They are Affidavits 57, 58, 60 and 83 and prove that the SS was not trained in racial hatred and certainly not for racial extermination, also that the SS was not trained for war either mentally or physically.

The affidavits in group 4 deal with the following charges: that the Waffen SS was an integral part of the whole SS. That is found in the transcript of the 19th and 20th December, 1945

Secondly that service in the Waffen SS was with a few exceptions mainly voluntary at the end of the war, and, thirdly, that the Waffen SS, because of their ideological training, had fought in an inhuman manner and contrary to International Law. Affidavit 84 shows that the Waffen SS as a unit had no concept of Himmler's ideology, and above all that the Waffen SS heard hardly anything about the other sectors under Himmler's power, and that they were not directed by Himmler in a military sense, but only in regard to personnel questions, clothing and equipment.

The next four affidavits will be taken together, 36, 37, 39, and 40. These prove that a considerable part of the Waffen SS and also special groups such as the Customs Border Protection and the SS Motor Transport Squadron, Auxiliary Field Post, were taken into the SS on a compulsory basis.

The following affidavits, Nos. 1, 31, 32, 33, 34, and 81, prove the following:

The Waffen SS were repeatedly instructed in the observance of martial law. Martial law was in fact observed and infringements were severely punished.

Affidavits 82 and 85 deal with the SS Police regiments in the same way as the documents quoted previously. They prove that these SS police regiments were purely regiments of the regular police without connection with the SS. Also the police divisions, to be distinguished from the police

regiments, were not at all under the SS up to April, 1942. Only after that were they forcibly ordered into the Waffen SS.

The "Dirlewanger" Brigade has been mentioned repeatedly. Affidavit 35 deals with this. This affidavit says:

"This brigade was not an SS unit but a unit set up on the direct orders of Himmler and composed of all kinds of persons on probation."

The next group are Affidavits 3 and 4. They prove that the assertion of the prosecution that the SS had participated in suppressing the SA on 30th June, 1934, is false. The General SS in Frankfurt and Berlin, for example, was only told to stand by. No arrests or shootings took place. I may say here in this connection that a large quantity of evidence from all over Germany is given in Affidavit 70. It is a cross-section from a whole camp, a whole internment camp, which will be presented in the digest.

The next group deals with another point of the Indictment: participation of the SS in the Jewish pogrom of 9th November, 1938. This comprises Affidavits 7, 6, 8, 9, 104, and 105. They prove that the SS in Nuremberg, Offenburg, Hamburg, Berlin and in Ulm did not participate in pogroms, but were only used for protection on the 10th November.

I consider Affidavit 5 of special importance in connection with the question as to whether an order from above was given to the SS to participate in these pogroms. It is by a certain Schallermeier. I have just heard it is available in English and I would be grateful if the Tribunal would permit me to read it. I shall -

THE PRESIDENT: Has it been digested in the transcript before the Commissioners?

DR. PELCKMANN: It was digested in the transcript before the Commission, your Lordship. I do not want to read the whole document, your Lordship, but may I read only a small portion of it which is especially important.

“About 3 a.m. on November 10th (this is Schallermeier speaking) the Reichsfuehrer dictated to me in my room a statement which read as follows: ‘On 9th November I went to the Fuehrer and towards 11.30 p.m. Gruppenfuehrer Wolff came to me and informed me about the order issued by the Gau 1 Propaganda Office in Munich. (I repeat Gau Propaganda Office.) I asked the Fuehrer what orders he had to give me. The Fuehrer replied that the SS should keep out of this action. The State Police offices were to take care of Jewish property and see that the Jews themselves were protected. The General SS who remained in barracks were only to be called in for protective measures if it proved necessary. I immediately passed on this Fuehrer order to Gruppenfuehrer Heydrich for the State Police offices and to the Oberabschnittsfuehrer for the General SS. When I asked the Fuehrer, I had the impression that he knew nothing about what was happening. The order came from the Reich Propaganda Headquarters and I presume that Goebbels, in his lust for power and foolhardiness, which had been obvious to me for some time, had sponsored this action at a time when the situation as regards foreign policy was at its worst.’”

May I correct myself. If I said this was Schallermeier that was a mistake. This quotation was dictated by Himmler; Himmler dictated this paragraph.

And the author of the affidavit goes on to say:

“I myself had to type what I had taken down from dictation” - I add - “then this statement of Himmler was locked up in the safe and made secure.”

Some very good material for judging as to the participation, or rather the non-participation, of the SS in these events of 9th November is again afforded to the Tribunal by Affidavit 70, a digest from a camp.

The next group includes the following affidavits: 14, 15, 16, 19, 20, 21, 23, and 25. It deals with conditions in the concentration camps.

These affidavits are to prove that the treatment meted out in concentration camps, as described by those witnesses, was generally speaking satisfactory.

Ill-treatment of prisoners was severely punished. Evidence of this is given in the numerous examples in Affidavit 70, which I have already mentioned, and in the digest of many affidavits, the collective Affidavit 119-122.

Relevant to the question of authority in the concentration camps and the part which this played within the whole SS organization are Affidavits 99 and 100. They prove that the intake into concentration camps from the employment of prisoners was not turned over to the SS, in particular not to the Waffen SS, but this intake was entered in the budget of the German Reich.

The next group includes affidavits regarding experiments on living human beings. I consider them valuable only in so far as they provide an answer to the question: What did the broad masses of the SS men know of these experiments?

Affidavit 17 is to prove that in Dachau prisoners voluntarily submitted to freezing experiments after they had been medically examined and given food to make them fit. Affidavit 107 also deals with these experiments.

The following group of affidavits, 18, 22, 27, and 28, deal with the question of secrecy regarding crimes, especially crimes in concentration camps, and are to refute the assertion of the prosecution, on Pages 3419 and 3420 of the German transcript, that the whole German population knew of the atrocities in concentration camps and therefore the SS men knew about them, especially the SS men outside the concentration camps. These four affidavits prove that from all persons who came in contact in any way with concentration camps statements of secrecy were demanded, further that the concentration camp guards could not have any insight into the actual conditions of protective custody camps and that even within the garrisons (Kommandanturen) of the camps one section was not informed about the activity of the other section.

On the same question of how much the members of the SS knew, I consider Affidavit 24 very important.

In answer to the explicit question of a Waffen SS Fuehrer, who reported to him, Himmler said in April, 1944, that everything was in order in the concentration camps, and that the treatment of the prisoners was satisfactory.

Himmler made this same statement to the whole officer corps of the 17th SS Division.

Affidavit 117 proves that the utmost secrecy prevailed in the Fuehrer's headquarters and the degree of secrecy was such that nothing was known about crimes in concentration camps, the extermination of Jews and the activity of the Einsatzkommandos.

I again put three affidavits together, 63, 93 and 94. They also show that the utmost secrecy was observed within Himmler's sphere of command and especially concerning the inspection of concentration camps.

The notorious speech of Himmler's at Posen in October, 1943, is known to the Tribunal. It was made to an Obergruppenfuehrer of the SS. The Schneider Affidavit, 29, says the following:

"Schneider was warned by Himmler personally to keep absolutely silent about the Posen speech if he valued his life."

Affidavit 41 shows that the Economic and Administrative Main Office (Wirtschafts and Verwaltungshauptamt) was competent for concentration camp administration through Amtsgruppe D. This affidavit emphasized the extraordinary secrecy which prevailed within this administrative organization.

Affidavit 12 reports that the Adjutant of the Chief of the SS Personnel Main Office made inquiries of the RSHA and also of the WVHA Amtsgruppe D. That was in 1943. This Chief of the SS Personnel Main Office inquired whether rumours about the murder of Jews were true. The

offices mentioned answered to the effect that those rumours were untrue, and that they were definitely enemy propaganda.

THE PRESIDENT: We shall break off now, Doctor, please. Will you be much longer in your summaries of these affidavits?

DR. PELCKMANN: No, your Lordship, these affidavits will not take much longer, but a resume of the group affidavits, which I must give so that the Tribunal will know what these group affidavits deal with, will take a little longer.

(The Tribunal adjourned until 21st August, 1946, at 1000 hours.)

WEDNESDAY, 21ST AUGUST, 1946

THE PRESIDENT: One moment, Dr. Pelckmann, perhaps you can help me.

In view of a letter which has been addressed to the Tribunal signed by most of counsel for the organizations but not, I think, by Dr. Servatius, dated a 5th August, 1946, the Tribunal would be glad to know from a counsel for the organizations how long they anticipate those who remain to present their documents and affidavits think they will take in doing so, and in what order they propose to make their speeches; also whether they are ready or will be ready when the time comes to make these speeches, because the Tribunal is very anxious not to have to postpone the presentation of these speeches.

Therefore, the Tribunal thinks it is proper at this time to ascertain, as far as possible, whether the speeches will be ready in due time.

I see that Dr. Kubuschok is not here. Dr. Pelckmann is here and perhaps he can tell us as far as he is concerned and Dr. Servatius.

DR. PELCKMANN: Perhaps I will need two more hours today. I believe my colleague, Dr. Laternser, will need one day for his speech, as he

has already said. How long the SA will take I do not know. As to how long we shall take with the pleas, I can only repeat what was said in the letter because we were, of course, very busy with the taking of testimony, the interrogation of witnesses, and with the presentation of documents and affidavits until just a few days ago. But I believe that on Monday we could all begin with our pleas. As far as I know, my colleague Dr. Servatius - I do not know whether he is here - is ready to begin his plea now.

We announced in the letter that We could hand in our pleas at the end of the week as desired; if we count three days for the translation and mimeographing, possibly one or the other of us could hand in the manuscript on Friday, and we could begin on Monday or Dr. Servatius might even begin at the end of the week. I, personally, if I may say so, would not be ready before Monday.

THE PRESIDENT: You will be ready by Monday?

DR. PELCKMANN: Not before Monday.

THE PRESIDENT: I think I ought to point out to counsel for the organizations that the letter was addressed to the Tribunal on 15th August, which is six days ago, so that they have had six days since then in which to get their speeches ready. I have also pointed out to each of the counsel for the organizations that it is quite unnecessary, and it is wasting the time of the Tribunal, to take so much time in commenting upon their affidavits and other documents; and the time would have been very much better spent in preparing their speeches. But I gather from what you say - and perhaps Dr. Servatius will be able to tell the Tribunal whether he agrees with it, and Dr. Laternser, too - that counsel for the organizations will in all probability be ready to go on with their speeches on Monday and not request any delay after that. Dr. Servatius, I understand, is ready to go on at once.

DR. PELCKMANN: Your Lordship, perhaps I may say one more thing. That the documents and affidavits are being commented on at somewhat greater length than seems necessary to the Tribunal is due - if I

recall correctly - to the following specification of the Tribunal. When the time of the speeches was set at three hours, it was said at the same time that counsel would have an opportunity to make comments during their presentation of affidavits and the documents, so that they would have the full time of three hours for their speeches, etc., at their disposal. We concluded from that that we would have an opportunity to comment on the evidence now, during the presentation of documents and affidavits.

THE PRESIDENT: Yes, but counsel for the organizations must realize that all these affidavits are summarised in writing before us; and therefore simply to repeat the summary which we have in writing, of course, does not really help us at all.

You have mentioned in the absence of Dr. Laternser, who I see is now present, that Dr. Laternser, you think, would be likely to take one day on these documents.

DR. PELCKMANN: Yes, he told me last night that he would probably need a day.

THE PRESIDENT: Let me hear what he is going to say. Dr. Laternser, in your absence, what I was saying was that the Tribunal had had this letter of 15th August, which was written six days ago, and that the Tribunal would like to know how long counsel for the organizations anticipate they will take over their documents, and whether they would be ready to go on with their speeches immediately thereafter. In answer to that, Dr. Pelckmann told me that he would take two more hours and that he heard from you that you would be likely to take one day.

I think the Tribunal would be very disinclined, very much disinclined, to listen for one whole day upon the documents.

DR. LATERNSE: Mr. President, I believe that I will certainly need a day. Please consider the following: The American prosecution used two days to present their evidence. The Russian prosecution used many days for their evidence against the General Staff. Now, having faced considerable

difficulties in procuring evidence within the framework assigned to me, I do not believe I am asking for too much when I say I need a day, which is a fraction of the time which the prosecution used to present the evidence against the General Staff.

THE PRESIDENT: Dr. Laternser, you are altogether leaving out consideration of the fact that we have set up these Commissions and the fact that you have been before these Commissions not only for one day but for many days.

DR. LATERNSE: Mr. President, I presented the affidavits to the Commission, but this was more a matter of form. The purpose of my presentation of evidence is to bring a certain order to it so that the Tribunal may see to what points of the Indictment the individual affidavits are to apply.

MR. DODD: Mr. President, I would like to point out to the Tribunal that Dr Laternser spent between nine and ten days before the Commission on the General Staff; and, of course, he called witnesses here in the courtroom as well, two, I believe, or three - I have forgotten the number.

DR. LATERNSE: Mr. President, that was not quite correct. I used several days to examine witnesses but not to present documents; and I must be in a position to present this written evidence to the Tribunal in a certain order. Otherwise it cannot be effective.

THE PRESIDENT: You say you must be in a position to present it in a certain order. Well, nobody wishes you to present the affidavits in the order in which they are numbered on the document; but you can group them, presumably, unless they all deal with different subjects. I rather gather that you have a very great number of affidavits; and I feel quite certain that a great many of them deal with the same topic; and, therefore, in a very short time - probably in the course of an hour - anybody could go through that list of affidavits and could see which affidavits relate to the same subject and could, therefore, group them. It is perfectly simple; and the Tribunal will

not under any circumstances be prepared to have their time taken up four longer than half a day in the presentation of documents by your organization or by any other organization.

DR. LATERNSEER: Mr. President, may I say something else on this point?

THE PRESIDENT: Dr. Laternser.

DR. LATERNSEER: I ask the Tribunal to consider that the Russian prosecution used several days to bring the most serious charges against the military leadership; and I ask that I may have approximately the same opportunity to answer these charges -

THE PRESIDENT: Dr. Laternser, Mr. Dodd has just pointed out that you have been before the Commission for nine or ten days; and you have already spent two days here. We have the very able and laborious work which has been performed by these Commissioners all before us in writing. I have before me at this moment a document. I do not know whether it is in consecutive numbers - or nearly consecutive numbers - but any rate it goes up to the number of 3,172 affidavits which have been summarised. If not consecutive numbers it is at any rate a bundle this thick of affidavits, which have been summarised in writing by these Commissioners.

You, counsel for the organizations, have had the opportunity of reading the report which has been made by the principal Commissioner on these affidavits and have, as I understand, not commented adversely upon any remark in that report. All these matters are before the Tribunal; and in my opinion the Tribunal have granted to the organizations the fullest possible and most adequate opportunity of being heard before the Tribunal; and the Tribunal think that they have heard enough on this subject; and they adhere to the decision which I have announced.

All right, Dr. Pelckmann.

DR. PELCKMANN: High Tribunal, I shall now give a short presentation of the last group of individual affidavits.

First, I present Affidavit number 108.

MR. DODD: Mr. President, I am sorry to interrupt, but we are a little bit confused. Sir David and I both feel that there may be some misunderstanding about the position of Dr. Pelckmann. We are rather of the opinion, from listening to him, that he means that he will be ready only to submit his speech for translation on Monday, and we wondered if the Tribunal did not understand him to say that he would be ready to make his speech on Monday, and thus avoid a delay of three days.

THE PRESIDENT: Certainly, the way I understood you, Dr. Pelckmann, was that you would be prepared to make your speech on Monday; not that it would necessarily come on Monday because, of course, Dr. Servatius's speech will come before yours. Presumably, unless you make other arrangements amongst yourselves, the speeches will be made in the order in which the documents and the witnesses have been presented. Doubtless you can make arrangements among yourselves - which the Tribunal will be only too glad to assent to - if one is ready and the other is not, but they will expect that there will be no delay.

DR. PELCKMANN: I believe, your Lordship, that that will be all right. As stated in the letter, we will present the manuscripts for translation and mimeographing by the end of the week. If, for example, I hand them in on Friday afternoon, I believe I can speak on Monday afternoon or Tuesday morning.

THE PRESIDENT: Wait a minute. That is all very well, but the Translating Division are human, and I do not see any reason why they should work on Sundays. I may be wrong, but I think I remember that you have assistants who are helping you and who, presumably, have been helping you ever since the 15th August, on which day this document was presented. As I have pointed out already, that is six days ago. Some parts of the speech ought to be ready now and ought to be in the hands of the Translating Division.

I see by the list, that has just been handed to me, that you have four assistants or that Dr. Babel has four assistants and four secretaries, and that you have one associate counsel and a secretary. I do not understand why the speech, or some parts of it, should not have been handed to the Translating Division already, and the same with the other counsel appearing on behalf of the organizations.

DR. PELCKMANN: But we are still in the presentation of evidence, Mr. President. So far it has not been possible for me to prepare a complete plea before the end of the presentation of evidence even after all my practical experience. But may I make a suggestion, Mr. President? I can hand in the manuscript of my plea for the Translating Section on Friday afternoon, and I can probably hand in a considerable part of it before that time.

THE PRESIDENT: All I am prepared to say is this, that I will not, on behalf of the Tribunal, order the Translating Division to work any more than the officer in command of that Division thinks proper; and the Tribunal expects that the speeches will go on without any delay. Is that clear?

DR. PELCKMANN: I was just dealing with SS Affidavit 108. From this it can be seen that the SS had nothing to do with the drive for the seizure of manpower.

Affidavits 102 and 103 prove that the so-called "Voluntary Self-Protection," abbreviated FS - which the prosecution considers a Fifth Column - had no connection with the SS and was never armed in Slovakia and the Sudetenland.

Affidavits 106 and 111 deal with the nature of the organisational book of the NSDAP and with that of the NS Year-Book. The prosecution quotes from these books to prove official opinions of the Party. These affidavits, however, state that the organisational book and the NS Year-Book were not official publications and that they are therefore no proof for organisational questions.

SS Affidavit 109 deals with the charge of the prosecution that SS men were protected by the regime when they committed crimes. It proves that when SS members committed punishable actions, before the establishment of the SS Courts in 1939, the SS officers saw to it that no difficulties were put in the way of the regular course of justice when such actions were brought to their attention.

Finally, there is a last group, Affidavits 90, 30, 91, and 92.

Affidavit 30 is available only in the French translation. It is an answer to the assertion of the prosecution that the whole SS organization and its members knew that the SS was a criminal organization.

The affidavits state, to mention an example, that there were particularly good relations between the foreign Diplomatic Corps and the SS, so that the SS members could not assume that this organization was criminal.

Now I wish to deal briefly with the affidavits which I mentioned at the beginning, and of which no digest is available.

THE PRESIDENT: What did you mean by saying that there was a group, which I took down as being 90, 31 or 30, or possibly both of them, and 92? By the document which is before me, Affidavits numbers 90, 91, and 92 have been withdrawn. Is that a mistake?

DR. PELCKMANN: I had made application in the Commission to have them admitted, and the prosecution did not want to have them admitted. As far as I can recall, no decision was reached by the Commission and it was postponed. But I heard two days ago that Colonel Neave, who was presiding in the Commission at that time, said that they had definitely not been admitted. That is new to me. If this should be the case, then I would ask for a decision of the Tribunal whether these affidavits can be admitted. This decision need not be given at once.

THE PRESIDENT: You just cited them as a group. Have they got any relation to number 30? Number 30, you say, refers to the relationship

between the SS and the foreign Diplomatic Corps. Do 90 and 92 refer to that?

DR. PELCKMANN: Yes, 30 was approved and is available in the French translation. The English translation -

THE PRESIDENT: We can take it then, and we will consider the application. We can take it that 90 and 92 deal with the same subject, is that right?

DR. PELCKMANN: Yes.

THE PRESIDENT: That is quite sufficient. I do not want any more.

DR. PELCKMANN: Now I shall deal again with Affidavits 68, 64, and 69. I must refute the assertion of the prosecution that ill-treatment, individual killings, and mass exterminations in the concentration camps can be charged against the SS as a whole because, as the prosecution asserts, they were known to most of the SS men. The very important and elucidating records of the trials of the Allied Military Courts against members of the concentration camp Kommandanturen, and against guards - for example, the trials at Belsen, Mauthausen, Dachau, Neuengamme, Celle, and Rasstadt - I was not able to obtain. A systematic examination of the witnesses and a part of the affidavits from the camps made it possible for me to ascertain facts sufficient to refute the assertion of the prosecution.

On 29th January, the President said that witnesses and evidence from the defense were especially wanted on the point concerning concentration camps. The President said on the same day, in answer to the question of the French Prosecutor Dubost, whether the Tribunal was convinced that the same terrible conditions prevailed in all camps which two witnesses had testified to: "If you want prove that, M. Dubost, it is necessary to call a witness from each of the hundreds of camps." I refer to the transcript. And, therefore, for purposes of defence, I have a number of affidavits from guards, members of the Kommandanturen and inmates of camps, and also from visitors to the concentration camps. I have submitted them as contra-

evidence. Now, I refer only to an affidavit which see very important to me, number 68.

THE PRESIDENT: Now, why do you not tell us which the affidavits are, that what we want you to do. You are telling us now, and referring to some statement I made in January, that you have got affidavits made from each camp. Well, what are the affidavits? It is quite easy to tell us what the groups are, is it not?

DR. PELCKMANN: These groups, Mr. President, I mentioned yesterday. I only wanted -

THE PRESIDENT: If you mentioned them yesterday, why do you go back to them today?

DR. PELCKMANN: In order to stress the importance of Affidavit 68, which I am about to explain. It is an affidavit of a commandant of a concentration camp. I can understand that, in view of the prevailing attitude, the general feeling of the Tribunal will be one of distrust toward this commandant. But, nevertheless, ask that this very detailed affidavit be read. It deals with organisational questions which are significant in respect to the question: "Who is responsible for crimes and ill-treatment of inmates in concentration camps, and who could know a them?"

For example, this affidavit explains the position of WVHA, Amtsgruppe D. I ask you to pay attention to the fact that this office must not be confused with the RSHA. Confusion has already occurred in summing up the testimony of witnesses before the Tribunal I should like to explain how important it is to examine the question of the organization of the concentration camp system with aid of this Document 68. But the other parts of this affidavit are also important.

The other important affidavits are 64 and 69. They are testimonies of SS judges who, just like the witness Morgen, had participated in the investigations against concentration camp criminals. From the witness Morgen himself there are Affidavits 65, 66 and 67.

THE PRESIDENT: Why does he make three affidavits on one day?

DR. PELCKMANN: I did not understand your Lordship.

THE PRESIDENT: I said, why does he make three affidavits on one day? Why not make one affidavit?

DR. PELCKMANN: During these days work piled up with examinations before the Commission and interrogations of witnesses. The witness Morgen arrived quite at the end. I had to see to it that the affidavits were presented as quickly as possible. For that reason -

THE PRESIDENT: Very well. Go on.



Men and horses of the SS Cavalry Brigade September 1941, Soviet Union.

DR. PELCKMANN: It is only a technical reason, your Lordship. These concentration camp investigations were, in my opinion, of great importance and very elucidating for the Tribunal in judging the concentration camp system in general and determining the responsibility of the rest of the SS. Therefore, I ask that the affidavits of these two judges be added and closely examined. I will deal with them in my speech.

Finally, I ask the Tribunal to note the whole of Affidavit 70, which has been translated completely and which comprises many pages. There is neither a French nor an English translation as yet. This affidavit gives a cross-section from a camp with 2,800 SS inmates, and these inmates include members of the various offices, members of most of the Standarten of the General SS from all parts of Germany and members of about 30 divisions, Oberkommandos, and replacement units of the Waffen SS. In addition, this affidavit is a good cross-section of the members at various times which, according to the Tribunal's decision of 14th January, should be a decisive factor. The highest ranks are not represented there; it is the so-called "little man" who is represented.

From a similar point of view, and because this evidence of affidavits affects the great mass of the SS, I ask the Tribunal for a proper consideration and evaluation of the 136,000 affidavits of which I have made a digest. For the evaluation of the credibility of these affidavits, the fact is important that they were taken down at a very early date without juridical or any other explanations. The SS members commented only on one or another point which interested them most. The fact that certain points are not mentioned in these affidavits is understandable, because the ordinary SS man naturally had only a limited view and was not able to judge on many subjects. As a result they could not write anything on these points.

Justice Jackson stated that the numerous affidavits of SS members were evidence only of their interest in their personal fate. But this digest is to refute that. The individual's range of view is generally limited, and since he

cannot testify to more than he knows, these affidavits, through the sum of the individual viewpoints, assume a great value which is important for me as defence counsel of the mass of the SS and not of their highest leaders. They give a clear picture of the impressions made on the masses by the teachings, the statements and speeches of the leaders, and what actions resulted therefrom.

Only this picture, only this cross-section, shows to what extent one can speak of collective criminality in the SS, if it is at all possible to say so juridically. These statements are also important for the question of conspiracy.

I may point out that this digest has not yet been translated. This digest consists of various groups. First, may I briefly touch upon Group I. It deals with the motives of volunteering for the SS, distinction being made between joining the General SS and volunteering for the Waffen SS before 1933 and after 1933. Of 12,749 affidavits, 12,671 say that the motives were idealism and patriotism alone for joining before 1933; 78 affidavits give various other motives, transfer from other units, for example. Sometimes cavalry units were transferred into the SS cavalry, and so forth.

As for joining the Waffen SS there are only a few affidavits. Of 488 men, 406 say that the Waffen SS was a select, young troop. Others say that they had to fulfil their military duties in any case and that they preferred the Waffen SS. Many indicate that the Waffen SS considered itself a fourth branch of the Wehrmacht. Many others indicate that they were racial Germans and as I proved yesterday with the aid of documents, racial Germans could perform their military service only in the Waffen SS. Some reported to the Waffen SS because they wanted to be in the police service after the war.

I have made a digest of Group II as to the question of legal compulsion for joining the General SS and drafting into the Waffen SS. Sixty-seven

affidavits say that the assimilation into the police resulted in their obtaining a service rank in the General SS.

The rest of the other affidavits are made by students, tutors and university teachers, or members of the postal guard, the Reich Food Estate, Civil Service employees, and Reich War Victims Care. Also honorary leaders are in this group.

Concerning the drafting into the Waffen SS, there are 4,042 statements. 1,806 racial Germans and 1,826 from other parts of the Wehrmacht or from the police were compulsorily transferred to the Waffen SS.

The question of membership in the General SS among Waffen SS members is of interest. According to these statistics there were 246 Waffen SS members who were drafted into the Waffen SS by the Wehrbezirkskommando, the district command of the normal Wehrmacht. Only one-fifth of them belonged to the General SS.

Of further significance is the following: As early as 1939 Wehrbezirkskommandos were drafting men for the Waffen SS. The witness Brill has also spoken on this subject. And Wehrbezirkskommandos drafted men to guard concentration camps by drafting them into the Waffen SS.

Further, members of the Reich labour service were taken over forcibly into the Waffen SS. The concentration camp guards were supplied by the Labour Office; through so-called emergency service obligation the Labour Office obtained the men for concentration camp guards, and there they were taken over forcibly into the Waffen SS. Some minor points are the forcible transfer of postal officials for the aid of the German Reich Post service at the front and for the SS field post.

Group III includes in its first subsection all the affidavits dealing with the knowledge which the SS members had of the intentions of their leaders

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THE PRESIDENT: Dr. Pelckmann, are you still dealing with Group I?

DR. PELCKMANN: No, your Lordship, I am on Group III. Group II -

THE PRESIDENT: Where did Group II begin?

DR. PELCKMANN: Group II began with the legal compulsion to join the General SS -

THE PRESIDENT: You did not say so. As far as the translation came through to me, I have taken down all the numbers you have given, and I thought they were all in Group I.

DR. PELCKMANN: I beg your pardon. I thought I said it. Perhaps it did not get through.

THE PRESIDENT: Now you have got to Group III, have you?

DR. PELCKMANN: Yes. It deals with the training which the SS members received. 55,303 SS members state that in this training they had no indication of criminal aims. It was training for character, for decency, for comradeship, and exemplary conduct of life. It is noteworthy that none of the SS men in connection with the training mentions Hitler's book *Mein Kampf*. Statistics will prove that the mass of SS men did not read this book at all.

Two hundred and eighty-nine affidavits deal with the evaluation of the racial doctrine. Of these, 233 do not consider it conducive to racial hatred, to the desire to destroy other races, or to create a master race. They see therein only a demand for a separation of the races from one another. Fifty-seven affidavits see in the doctrine the purpose of selecting the best among the people. Various affidavits say that the racial doctrine included respect for other peoples. The problem of training for colonisation and Germanisation is not mentioned in any affidavit.

Many affidavits deal with the question of whether the General SS were trained as political soldiers; 20,010 affidavits are available on this subject and 15,461 ascribe no military character to the General SS. They give, for example, the following reasons:

They never had any military training in the General SS. The ranks of the General SS were not recognized in the Wehrmacht. There were no arms, or

so-called tactical exercises. Tactical discussions were forbidden. Shooting was done only with small calibre guns. There were not many guns.

In 1,053 affidavits there is confirmation of the testimony of various witnesses here that, during the war, service in the General SS no longer occurred save in exceptional cases.

On the question of psychological preparation for war, 3,304 affidavits say that their authors did not think of war and did not believe in war. Various affidavits say that at the Junker-schools an anti-war feeling and spirit was encouraged by educational means. And in the *Verfuegungstruppe*, the so-called field service, a more intense military service was instituted only when general military service was introduced.

One hundred and twenty-seven affidavits confirm that the General SS did not demand any special obedience. That is, no oath which, according to its form, would bind the individual to any greater extent than in the *Wehrmacht* or in the Civil Service.

There are 2,674 affidavits dealing with the training of SS men. In 3,138 affidavits it is asserted that crimes against humanity were not known to them and were certainly not committed.

The second subsection of Group III is to make clear what the members recognized as the actual aim of the organization. It is a question of ascertaining whether there was a contradiction between the theoretical training and the real actions of the leaders. Six hundred and eighty-eight affidavits deal with the question of whether power in Germany was to be achieved through suppression of political opponents. On the question of whether the SS members recognized the destruction of Jewry as an aim of the leaders, 1,593 out of 1,637 affidavits which mention this problem state that the Jewish problem was not to be solved by killing, or by the so-called "final solution," and that they had no knowledge of these intentions of the leaders. They point out that the SS members were forbidden to undertake individual acts against Jews. As evidence, numerous members refer to the

fact that many condemnations to death or to severe sentences were passed because of crimes against Jewish persons or Jewish property.

Another question was whether the SS members believed that the actual aim of the leaders was to rule Europe through war. There are 12,596 affidavits which say that neither statements of the SS leaders nor statements of Hitler made plain that the conquest of Europe was an aim of the SS.

Group IV, the next, seems to me quite important. It includes affidavits on the question of the participation of the SS members in the crimes asserted in the Indictment.

The first question deals with participation in the concentration camp system, and 2,866 affidavits deal with this subject. They are mostly from guards, a few from former concentration camp inmates and a few from kitchen and workshop personnel. They deal with the treatment of the inmates and with the conduct of the guards. They only show, of course, how the guards saw the concentration camp conditions and the life of the inmates from their point of view. They cover almost all concentration camps and labour camps. They give a unified picture of the impossibility of obtaining an insight into the true conditions, even for people working near the camps. They give a unified picture of the degree of ignorance of the conditions in the camp and also the reasons for this, namely, the order for extreme secrecy. Of these affidavits, 2,385 say that instructions were constantly given about the conduct of the guards, and examples are given of punishment for disobedience of these rules, especially for ill-treatment. Significant is the statement in many affidavits that the relationship between the guards and the command personnel was not only cool but even tense.

Prisoners themselves, whose affidavits are presented, state that a great part of the responsibility for the conditions belongs to the internee-Kapos, who were often, criminals. The question of the participation of SS members in so-called mass exterminations in extermination camps, which are to be distinguished from the concentration camps, is not mentioned at all in the

affidavits. We have heard from various witnesses that these camps had a routine of their own, and only a few SS men or men in SS uniforms were stationed there.

Now, I come to another point. A cross-section through all well-known divisions of the Waffen SS is given by 8,242 affidavits, and on the question of illegal treatment of prisoners of war 4,306 testify to constant instruction on correct conduct before each action. Numerous affidavits give examples of especially good treatment of prisoners of war.

There are 13,613 affidavits dealing with the question of treatment of the civilian population in the occupied territories contrary to International Law. There were no orders to this effect; instructions about correct conduct were given constantly. The majority of SS members can report only of good relations with the civilian population in the occupied territories. There is no mention in any affidavit of the participation of the SS in resettlement or in deportation for slave labour. A few statements say that labour commitment was not an affair of the SS. Only a very few affidavits touch upon biological experiments. They come from men who had to do with concentration camps. These few say that they had heard that the prisoners volunteered for experiments. In all, 1,271 affidavits deal with the so-called Roehm Putsch. The General SS did not participate in these events; parts of them had been told to stand by but were not armed and not employed. To 9th November, 1938, 4,407 affidavits emanate from various units of the SS, Oberabschnitte, Abschnitte and Standarten of the SS in almost all cities of Germany and all districts. It is said with special emphasis that the SS did not participate in these excesses.

THE PRESIDENT: Dr. Pelckmann, I suppose what you are doing is reading out your summary of these 136,000 affidavits; is that right?

DR. PELCKMANN: Yes.

THE PRESIDENT: Verbatim?

DR. PELCKMANN: Your Lordship -

THE PRESIDENT: I asked you whether you were reading it out verbatim.

DR. PELCKMANN: As soon as the translation -

THE PRESIDENT: That is not an answer to my question. I asked you whether you were reading it out verbatim.

DR. PELCKMANN: No, I am only giving a resume, your Lordship.

THE PRESIDENT: Well, I think we had better adjourn now.

(A recess was taken.)

DR. PELCKMANN: Your Lordship, I regret very much that the translation of the summary is not at hand. It would, of course, greatly facilitate the understanding and the grouping of this material. Group V deals with statements concerning the general ignorance of the bulk of the SS membership, 96,257 affidavits being at our disposal. They tell us that the majority of the members of the SS knew nothing about the crimes attributed to them before the capitulation. They say that in general, but they particularize when they deal with the various types of crimes concerned. One fact is specially significant in this connection and is particularly emphasized. At the time when these crimes assumed a larger scale, that is, during the war, the mass of the SS was fighting at the front; and for that reason alone it could not have any knowledge of incidents of that sort, for the information of the man at the front is extremely limited, as experience teaches.

Next comes Group VI. It deals with the assertion made by the prosecution that the SS had been a unit. The first question is whether the branch organizations formed an actual unit. There are 5,700 affidavits dealing with this question. One-half shows that a conscious effort towards unification for purposes of carrying through a conspiracy was totally lacking. The other half refers to the fact that the Waffen SS was not basically recruited from the General SS. Therefore, it emphasises the separation between the General SS and the Waffen SS. The second question

is whether the members of the various branch organizations knew of the activities carried out by the other branches. The significance of the question could not be recognized by the members of the SS without a previous explanation, and therefore few of the affidavits deal with it. Those few affidavits that we have concerning that activity of the various main offices of the SS confirm that they were set up separately, and that a personnel union existed only in the person of Himmler himself.

Several affidavits refer to the fact that, for instance, the personnel of the concentration camps were made up of the most diverse groups and components. Many affidavits emphasize that the state of secrecy which had been ordered, as for example, by the Fuehrer Decree Number One, which has been quoted frequently, and also through special directives, prohibited a close co-operation of the various branches of the SS. In some other affidavits it is said that the General SS on the one hand, and the police and the SD on the other, did not form a joint body.

Very informative are the affidavits which deal with the components of the Leibstandarte, 1934. Less than ten per cent of the members of this Leibstandarte were at the same time members of the General SS. A large number of these affidavits state that during the war, practically speaking, the General SS did not exist. Three hundred and forty-two affidavits deal with numerous affiliated groups or branches of the SS. These, in truth, only exercised activities of a definite, specialized character; they were not concerned with carrying through the alleged SS activities, and had only a loose connection with the General SS. Among these groups we find the SS mounted units, the Reitersturme, who devoted themselves to motor riding; SS female helpers, who, like the Wehrmacht female helpers, were only used during the war in intelligence and information service; others were the SS sport organizations, the Lebenshorn, the medical units, front units of the German Reichspost, signal units; and so forth.

Affidavits of Group VII, numbering 3,174, deal with the question of the SS attitude toward the Church. On the basis of their positive statements, these show that, according to their conviction, a persecution of the Church was not intended by the SS leadership.

Under VIII there are 127 affidavits grouped together which testify to the fact that many offices under Himmler had no connection with the SS and, further, that between Himmler and the SS an estrangement had arisen especially in the course of the war.

Under IX, 435 affidavits are summarised. They deal with the behaviour of our enemies during the war and after the capitulation. These affidavits, based on the experience of the SS men, contain statements about actions contrary to International Law which the enemy perpetrated in combat. Names of places are given, as are theatres of war, nationality of the enemy, and the kind of excesses that occurred. The enumeration is intended to show that excesses of this kind can hardly be prevented during war and that for that reason one cannot conclude that excesses were systematized. They serve the purpose of showing that the German troops, and especially the Waffen SS, if they are confronted with isolated cases of violations of International Law, which some of the affidavits say were punished, cannot be charged with having acted according to a system.

The last group is X. It contains 57 affidavits which reproduce the actual personal impressions of foreigners about the SS. From the recognition given by these foreigners, which was known within the SS, the individual SS man concluded that the general behaviour of the SS could not be criminal, and that its activity was not objected to by the world as a whole. Various personalities are mentioned in relation to certain incidents; the opinions of prominent Americans, Englishmen and Russians are given, such as Daladier, Chamberlain, Lord Rothermere, Chaim Weitzmann, and others.

Finally, I should like to submit, but without going into a detailed explanation of it, a statistical record, set up on the basis of a circular.

With that, my Lord, I have concluded the submission of affidavits and documents.

Concluding Speech from the Defense

MONDAY, 26TH AUGUST, 1946

THE PRESIDENT: Now, Dr. Pelckmann.

DR. PELCKMANN (for the SS and SD): First, I should like to refer to two points. In the letter of 23rd August I announced that my final speech cannot be translated. Secondly, I should like to remind the that Tribunal that the -

THE PRESIDENT: Dr. Pelckmann, sixty pages of it have already been translated, I understand.

DR. PELCKMANN: Yes. The French translation, however, has not been made yet. Furthermore, I beg to point out to the Tribunal that the answers to the interrogatory which I sent to the witness Rauschnigg have apparently not been received yet.

Your Lordship and gentlemen of the Tribunal, when, on 27th February, 1933, the German Reichstag was destroyed by fire, the Nazis willed that out of those flames the Third Reich, that was to last for a thousand years, should be born. When, a little more than twelve years later, the whole of Germany was engulfed in a sea of flames, that Reich went down in rubble and ruins.

Both of those historic events were followed by trials. Their meaning was and is to determine who were responsible for those two crimes of human history.

The German Supreme Court did not solve that task. It is true that it acquitted with remarkable courage, as Mr. Jackson has stated, the indicted Communists, but it failed to determine and certainly to sentence those who

were really guilty, who hired the unfortunate tool, van der Lubbe, and who performed the deed with him. Thus, under the impact of public opinion, the truth has been muzzled and has been concealed by the Nazi Government. Formal justice has been satisfied. The culprit had been sentenced but that divine power, Truth, and the deepest human insight remained hidden. These alone would have been able to open the eyes of the German people at that time and to hold it back from the abyss.

Now this High Tribunal, this Court of the World, faces the task of passing judgment. Whose guilt was that world conflagration? Who was responsible for the destruction of foreign lands and finally for the downfall of our German Fatherland? And again there exists the danger that this Court too should pass merely a formal verdict, naming guilty ones - but that the deepest and last truth should remain hidden by the power of psychosis which, in accordance with the laws of psychology and psycho-analysis, would be the natural consequence of the many years of struggle between the Hitler regime and the free peoples of the world.

Will this Tribunal be in a position to save, by its verdict, Germany and all the world from an abyss deeper and more horrible than anything experienced before?

This trial is a criminal trial. It is truly the greatest as far as the number of defendants and people concerned, and above all, the most important which ever was recorded by legal history, but yet, in all its characteristics, a typical criminal trial. Therefore, it followed that Anglo-Saxon legal principle which governed the Charter, which was reaffirmed during the public proceedings, the principle that the prosecution had to collect and to present only those factors which could incriminate, never those that could excuse the accused. Effectively, the prosecution is supported by the mass psychosis to which all the witnesses of the test causes celebres of world history are subject, for reasons which international scientists, particularly Le Bon have given in detail. Openly and cheerfully I confess that in the

course of the defence which I conducted I did not use the corresponding principle of painting in black and white. I, too, was endangered by the possible mass suggestion exerted by those hundreds of thousands of voices which reached me from the internment camps, and I was tempted to defend any price - losing by that, that basis of facts, as they actually were. This result shows already the dangerous reaction brought about by such a mass accusation and its political consequences.

I am most thoroughly convinced that by such black and white painting the High Tribunal would have been betrayed in its search for the real truth. I did not see my task in doing so, although the principles of the Charter would have given me the right to do so. In such a trial, concerned with the very basis of humanity, with the fate of the German people and the future of the world, it cannot be left to the cleverness of methods in the contradicting use of prosecution and defence to decide whether the Tribunal considers the truth to lie half-way between. It is not the task of the defence to gain tactical successes by emphasizing the one and suppressing the other argument - nay, incorruptibly we have to find clarity - "Clarte" as demanded by the fanatic seeker for truth, Henry Barbusse. That is the rule in accordance with which I selected my witnesses. I particularly remind you of Reinecke and Morgen, the evidence of whom I shall evaluate later.

It was my endeavour to assist the Tribunal in ascertaining the historic truth.

In doing so I was guided by the simple and therefore beautiful German medieval proverb, "What is done cannot be undone."

Those words do not only imply all the tragedy of what is done because there is no undoing. Those words have a deeper meaning:

Past events do not bear nor tolerate a retrospective study; that means no deed can correctly be grasped and understood if speculated upon ex post. No, one has to look at it as it offered itself to the contemporaries at the time of its performance, from the beginning to the end.

One has to examine all the circumstances surrounding the deed and the person who performed it as well as his psychological situation at the time of its performance. The judges must familiarize themselves most thoroughly with the personality of the perpetrator to measure the extent of his guilt.

This is equally true for this trial. Nations judge another nation; the family of peoples judges one people which has brought deep suffering to the world, a State which has committed Crimes Against Humanity. In the organizations there have been indicted huge formations, large sectors of the German people have been put in the dock, and, therefore, it seems necessary that the judges of these millions of people acquaint themselves most thoroughly with the lives, the knowledge, the hopes and beliefs of these masses at the moment when the ideas and accomplishments of National Socialism were becoming effective and its criminal excesses were beginning. Hence, the judges of the four largest, and for the decision of this world war, most important nations of all the world, will have to make the attempt to decide just as in a case before any normal jury - "How did the deed come about?" In what situation did the defendant find himself at that time? Which speculations and sentiments drove him to commit the act? Did he have any intention of doing anything illegal? Is it possible that he himself was deceived? Was he at all able to recognize the illegal nature of his doing - and if he learned of it only gradually - was he in a position to adjust his action in accordance with that insight? It is extremely difficult for the judge even in normal criminal proceedings to free himself from the ex post reflection and to evaluate correctly the circumstances of the deed, the milieu of the deed, and the personality of the one who performed it. How exorbitant are the demands for justice for the judge when he has to pass sentence on a man who has transgressed against a member of his, the judge's, family. Every one of the four nations sitting in this Court has suffered tremendous damages by the crimes of the Nazi regime, for which millions of members of the organizations have to account now. But in

accordance with the statements made by Justice Jackson in his opening speech, I venture to hope that you, High Tribunal, will succeed in this titanic undertaking to be free of feelings of revenge and seek justice and nothing but justice. Will you, as non-Germans, who have not yourselves lived through the unique historic phenomenon of a mass psychosis and a tyranny of continental proportions - will you be able to grasp and to explain to yourselves how such things could happen? Can you conceive that crimes were not committed by the mass of the members, that they were not consciously organized by them - that they were not even known to them?

The Charter rightly states, and the Tribunal has acted accordingly, that it is not the task of this Court to ascertain which inner causes - whether justified or not - led to this war. The decisive question is only: Was it an aggressive war? Nevertheless, in the cases of the individual defendants, evidence was allowed to be admitted as to how the historical development psychologically led them since the First World War to this new murder of nations. How infinitely more is one justified, when endeavouring to establish the guilt and the crime of the organizations in their very incipency, in examining the historical background, the political situation as a whole in and around Germany. The masses have no clear thoughts or sentiments. They are moved by vague emotions, emanations of a phenomenon which the scientists have called "mass-soul." They are moulded by the pictures and promises offered by their leaders.

One of the Prosecutors in his final speech against the individual defendants stressed how enormous was their guilt and how disastrous the consequences of their acts, because of the clever use of the masses, the seducing of the soul of the people by the glittering magic of slogans and the promise of a Utopian development. Do not these very words give the best proof that the mass of the members desired only the good and the non-criminal?

Already in its very beginnings, even before 1933, the principles of the SS were identical with the programme of the NSDAP. Not only before this Tribunal has the question been discussed whether that programme and the means and methods of its realization were criminal. This question stirred the public, the authorities of the German Republic, and the best heads and hearts of our people for many years before 1933. Were the motives criminal if the masses followed a politician, who did not promise them easy predatory incursions at home and abroad, but rather work and bread, when he rallied them to national unity as contrasted to the pell-mell of a parliamentary system turned to ridicule by forty-one parties and a democracy which brought about its own death by weakness and half-measures?

It is the German people's deep tragedy that it could not sublimate its consciousness, that it came too late when the riches of the world were distributed by strengthening and improving its recognized position in the world of intellect and applied sciences. The German is a romantic - particularly in the field of politics. This romanticism circles around vague concepts of fate and doom and the dream of power once held in the "Holy Roman Empire of Germans" of a thousand years ago. This belief in destiny has been fostered by an absolutely incorrect presentation of German history for more than a hundred years, so that it needed only a skilful sorcerer to send once more millions of German youth to death and destruction by suppressing the real facts.

But the great seducer, Hitler, had not gone so far yet.

At first, the protestations of peaceful intentions towards his own people were more important than those towards foreign countries, which did not yet enter into the picture. As is the fault of all large political parties and their armies, and because of the weakness of the republican government, the inner political life had changed to an ever-increasing degree into a real state of war in the streets. Nevertheless, the secret parliamentary elections were

carried through without terror or deceit. Through these elections the citizen could observe a steady increase of strength of the extreme parties of the Right and of the Left. He could not consider it a crime to join the extreme party of the Right, the NSDAP, or its SS, which in contrast to the SA, which ruled the streets, was mainly concerned with the protection of the speakers during the partisan warfare among the political adversaries of those days.



Men of the Finnish Waffen-SS returning home..

Every German who lived through those days knows with what tension the question was discussed, whether the NSDAP and its formations were planning undertakings which signified high treason, or which aimed at overthrowing the Government by force. In 1923, in the early days of the Party, Hitler had attempted a coup d'état which had failed. Now, for many years, he had been advocating "legality." When in September, 1930, three young officers of the army of 100,000 were indicted before the German Supreme Court for high treason for having attempted to found National Socialist cells in the Army, Hitler as a witness testified under oath that his revolution was one of the spirit and that his aim was to come to power by legal means. This appeared in all the papers in huge headlines and impressed itself on the enemies and the followers of Hitler alike. Dr. Kempner, then Oberregierungsrat in the Prussian Ministry of the Interior, now a member of the American prosecution, was one of the few who considered that oath perjury. He submitted to his Ministry a detailed report, which ended with the conclusion that the NSDAP was guilty of high treason. But even that seeker after truth had to admit in his description of the situation as it existed then (Volume XIII, No. 2, June, 1945, "Research Studies of the State College of Washington," Page 120) that even ministerial officials of the German Republic did not consider Hitler a liar at that time, 1930. That was how Hitler's clever propaganda influenced such critical, hostile circles. Should one be surprised that the masses of the SS put their trust in him. Incidentally, at that time they numbered only a few thousand. Well, matters went even farther. When Dr. Kempner denounced the Nazi Party in 1930, after a thorough investigation before the Supreme Court, the Chief Public Prosecutor ruled in August, 1932, that there existed no reason to prosecute or dissolve it. (Compare Kempner's study, Page 133.) What other effect could such statements, voiced by the highest authorities of the Republic, have had on the masses? The effects were reflected in ever-increasing election returns for the Nazis.

But the most striking feature is - and that is of decisive importance for the inner attitude of those thousands who joined the SS just after 30th January, 1933 - that Hitler actually did not break his oath. Although it is quite true that Dr. Kempner's prophecies in regard to the further development were correct in general - this was not recognized until much later - he was mistaken in his early predictions. The Nazi Party in fact remained a legal one; it did not seize power by a coup d'état, but Hitler was asked by Hindenburg to form a cabinet in accordance with parliamentary rules.

What is it that those ministerial officials who had refused to believe the pessimist, Dr. Kempner, were able to say? Is it not likely that they would be triumphant because they had been right? Was their conscience not set at rest? After all, that man Hitler was not as bad as people had said. Now that he had entered the Government he would become a moderate - as opposition after gaining power always did. And was it not true, too, that the great mass of Hitler's followers were proud that they had succeeded in, coming to power by peaceful means after an election fight whose propaganda machine was almost of American proportions?

In viewing that period of time, one question inevitably arises: were the mass of Hitler's followers, the mass of SS men, at that time able to recognize that that point of the Party Programme which probably was the most clear cut, namely anti-Semitism, contained a criminal element?

Anti-Semitism is not a new phenomenon; neither is it, if one studies its spiritual basis, something typically German. In my opinion it is based on the inferiority complex of the average man, on his mistrust of the Jews' superiority in certain intellectual fields. Neither is the refutation of anti-Semitism by all civilized nations and individuals anything new either. It culminates in the pope's statement, "He who discriminates between Jews and other human beings does not believe in God and is in conflict with the Divine commands." But the enigma which we cannot pass by when

discussing the question of criminality is that there should exist at all a Jewish problem which is not based on religious differences, but on race. The enigma is that there still exists a race problem which leads continuously to conflicts in our modern world which has grown so small. Is it not puzzling that the Polish Cardinal Hlond, who went through all the horrors of the Nazi regime, only a few weeks ago tried to justify to some extent Polish anti-Semitism by referring to the leading role played by Jews in the Polish Government? Is it not puzzling that even today, after the horrible experiences of the Hitler regime, the Arabs act against the Jews in their traditional homeland, Palestine, and particularly against their influx, and that mutual acts of violence are committed? The situation is similar in Europe. Race problems, not only anti-Semitism, still exist in all other corners of the globe.

All of them cry out for a just solution and it can be found only in the granting of equal rights to all races. Some progressive nations have made anti-Semitism a criminal offence. But was it criminal when the State, under the influence of those false ideas, sought the solution by prohibiting the races to mix and to influence public life? Here again much is to be explained by what was happening in those days. The bad example of a few Jewish immigrants from Eastern European countries, such as the notorious swindlers Barmat and Kutisker, was in sharp contrast to that of the great German Jew and unforgettable statesman, Walter Rathenau, who long ago had issued to his brethren a call to their moral consciousness. This situation offered the basis for a collective mood, for a mass psychosis against the Jews, aided by the external economic distress which always occurs in the course of great political and social upheavals, and just as in this present trial it is about to happen again by creating collective injustice against certain categories of people. The demand to put this anti-Semitic principle into practice by legal means could not have been a crime, because the State appeared to be the guarantor that the principle would be applied without

hatred and personal revenge. In a way it was merely another version and anachronistic aggravation of the American legal principle of -

THE PRESIDENT: Dr. Pelckmann, I do not want to interrupt you, but you will not lose sight of the fact that you are only going to be allowed half a day for the speech, and I observe that it is said to occupy 100 pages, and I only interrupt you at the present stage to point out to you that the matters which you are dealing with now are matters of a general nature and to which our attention has been drawn throughout the course of this Trial, and it may be in your interest to shorten this part of your speech rather than other parts of it. That is the only reason why I interrupt you now.

DR. PELCKMANN: Yes, your Lordship, I have already considered abbreviating the speech.

The demand to put this anti-Semitic principle into practice by legal means could not have been a crime, because the State appeared to be the guarantor that the principle would be applied without hatred and revenge. That in all this Hitler was inwardly moved by hatred - as revealed by his most trusted mouthpiece, Rauschnigg, in his book, *Hitler Speaks* - Page 91 - was not known to the masses. That hatred, which sprang from the feeling of inferiority of one who recognized the superiority of the penetrating intellect over dark impulses, remained concealed; for anti-Semitism was preached to the SS men merely as the other side of race eugenics on which emphasis was laid. By a skilful use of those race emotions which spring from a country's history, so difficult for the non-European to understand, and which were bound up with such conceptions as "Ordensprinzip," "Mannerbunde," and "Sippengemeinschaft" - I refer to Documents SS Nos. 1, 2, and 3, with all their twisted romanticism dressed up in modern clothes - Hitler endeavoured to create in the SS a breed of men who by their bearing and self-discipline would represent an "elite" for purposes of raising his own people to a high level. This tendency, though very alien to modern Europeans, or cosmopolitans, can hardly be called criminal - I am

referring to the pertinent questions asked by the High Tribunal - and it did exclude automatically an anti-Semitic tendency of the nature of the Sturmer or even of the brand of the less vulgar SA. It is also significant that the prosecution has not charged the SS with one single case of brutality towards Jews before 1933. The so-called "Leithefte," the monthly publication of the SS, and the evidence given before the Commission by the witness Schwalm concerning the training of the SS, testify to the restrained attitude of the SS to the Jewish question. Later it was reaffirmed by the non-participation by the SS in the anti-Jewish pogroms of 1938, which I shall describe in another connection. I shall also demonstrate how the atrocities committed during the war against Jews and the mass killings were in conflict with the original tendency of the SS, and how they were made possible by direct secret orders from Hitler and Himmler through criminal individuals and groups, and how they were kept secret from the masses of SS members.

From the wealth of points of the Party Programme which the SS accepted as a matter of course, I would like to pick out only the elimination of the Versailles Treaty and the demand for living-space, because those two things might be important factors for the alleged preparation of an aggressive war. Nowhere has the prosecution said how, at that stage, the mass of SS members could assume that those demands were criminal, that is, that they should be accomplished by an aggressive war.

I have shown how Hitler by his legal assumption of power strengthened the confidence not only of his SS men but how he gained the trust of new men who never would have trod with him the road to crime. May I respectfully request the High Tribunal to read the testimony of State Secretary Grauert before the Commission and learn how a man with the best intentions entered the Hitler administration and the SS, and did not leave it until 1936, when he, an experienced legal administrator, realized that the suspension of the historic principle of the separation of powers -

THE PRESIDENT: Will you spell the name?

DR. PELCKMANN: G-R-A-U-E-R-T, Grauert.

THE PRESIDENT: All right.

DR. PELCKMANN: - which he, an expert, realized only in 1936, remained hidden from the masses. In this connection I ask you to read the summary of approximately 136,000 affidavits which show why the membership of the General SS increased within a few months from 50,000 on 30th January, 1933, to approximately 300,000.

Hitler's great gamble for power, and with it the tremendous betrayal of the German people, only begins - paradoxical as it may sound - after the so-called seizure of power. After one month of triumph over the Chancellery and this parliamentary revolution, in the course of which, no doubt, the Right did commit excesses, which however cannot be laid to the charge of the masses as premeditated planning, the pretext is created for the final elimination of all opponents; the burning of the German Reichstag. The prosecution does not assert that the German people, the members of the organizations, the SS men, knew or even suspected that this fire had been planned by the Nazis and carried through by the Brown Shirts by using the tool van der Lubbe. Such an assertion would, of course, be absurd.

In order to understand the mentality of the SS men who, after January, 1933, filled the ranks of the SS and formed four-fifths of their strength, one must recall Hitler's Reichstag speech of 17th March, 1933. When the new Reichstag was elected, a large part of the opposition was eliminated, after the fire, by the banning of the Communist Party and the arrest of many of its members, and this with the approbation of the enraged population, because they had committed high treason by their alleged participation in the crime of arson.

When Hitler, while observing all parliamentary forms, asked for an Enabling Law (Ermächtigungsgesetz), the Social Democratic members of the Reichstag asserted that this law would undermine legal security.

In view of the true background portrayed above, it could only be the act of a daring trickster when Hitler answered in reply: "I really must say that had we not had an understanding of what is legal, then we would not be sitting here and you would not be sitting here - Gentlemen, it would not have been necessary for us to embark on this election or summon the Reichstag." (Reichstag Records 1933 Pages 65 and 66.)

But who, gentlemen of the Tribunal, among the mass of the people, among the old and new members of the General SS, knew at the time how audaciously Hitler was lying. These men were misled by the cloak of legality with which Hitler concealed his true self. And this speech is not all. Just consider how the Supreme Court, made up of old, experienced, former Republican judges, with scrupulous precision during many months of the trial until 1934, sought to establish who was guilty of the Reichstag fire. They acquitted the Communists Torgler, Dimitroff and others, but sentenced the Communist van der Lubbe and established publicly the complicity of Communist circles who remained unknown. Could the mass of SS members, as well as the rank and file of the German people, think otherwise than that Hitler had really saved the people and the State from a violent revolution for which the Communists were blamed at that time? Who at that time knew - as I knew, being a defence counsel - that the charge which had been prepared for months, even years, against Thaelmann, had to be withdrawn because of insufficient evidence? These few who then, or soon after, learned or guessed the truth, and who, in spite of the ever-increasing danger of being arrested, in discussions with friends and acquaintances, expressed doubts regarding the authenticity of the official and popular thesis, these few knew that, as against the semblance of legality supported by unceasing propaganda, they would not be believed by the masses.

The masses appreciated that in view of this threat to the State the so-called "enemies of the State" were to be rendered harmless in time. Seen

from this angle, even the concentration camps appeared justified. But I shall come back to that later. All these were harsh and in many cases even criminal measures which partly also incriminate SS members but not the entire mass of the SS.

However, we must not lose sight of one thing. It did not come to the use of force, typical in a revolution, until after Hitler had assumed power. The cunning thing about it was that these excesses - such as arrests and bodily injuries - which were committed by members of Nazi formations - in very few cases by members of the SS - were committed in the belief, created by the deceiving of the masses, that they were necessary in order to safeguard and defend the power, which had been legally acquired, against attacks or threats.

After the acquisition of power, this revolutionary mood, created by the deception of the masses regarding the true events, which, indeed, is unique in history, is typical of all revolutionary excesses: Under the cover of factual or alleged idealistic motives - such as love of the Fatherland, love of humanity - crimes were committed. Just consider, gentlemen of the Tribunal - since we have not yet sufficient perspective of the many revolutions of the modern age just consider the French Revolution: what crimes were committed under the slogan of "Equality, Liberty and Fraternity." In the light of the experience of modern psychology it seems to me to be quite out of the question that mass movements can be unleashed or incited by inferior moral aims. The masses cannot consciously be led to crime. Even Gustave Le Bon inclines to this opinion. In the shadow of the high ideals of the masses it frequently happens that crimes are committed; but then, they are only instigated or perpetrated by the few who deceive the masses about the true reasons and events. This thought seems to me to be a decisive factor when dealing later with the question of concentration camps and the atrocities committed there and establishing whether the mass of the SS were responsible or not for these.

The concept of loyalty, too, belongs to those ideals which inspire the masses. One must be acquainted with the German mentality in order to be able to gauge what immense opportunities this concept afforded the psychopathological seducer of a people - Adolf Hitler - ignominiously to deceive hundreds of thousands. We know how much the word "loyalty" means to a German, educated as he is, and influenced by romantic and retrospective contemplation of history. Even Tacitus praised that trait in the ancestors of the Germans. Hitler exploited this weakness of the Germans and in this way was able to cause hundreds of thousands, even millions, to link themselves with him and his destiny. We know that what is permissible and understandable in private life is fundamentally wrong for the State. By that I mean unconditional devotion to a human being. In his work, *The Question of Guilt*, the Heidelberg philosopher Karl Jaspers says in regard to this question:

"The loyalty of followers in narrow circles and in primitive conditions is a feeling which has nothing to do with politics. In a free State all people are subject to control and change."

The German Socialist Bebel once expressed it in the following manner:

"Mistrust is a virtue of democracy."

These views are taken for granted by the free peoples of the world. But for a people who wanted to create a modern State according to retrospective historical dreams, they are a new revelation. Quite justifiably Jaspers sees a twofold guilt.

"First, the very fact of submitting oneself politically and without reservation to a leader, and secondly, the esteem of the leader to whom one subjects oneself. Even the atmosphere created by such subjection is a collective guilt."

Actually Jaspers means by that a moral and political guilt, but not a criminal guilt.

In the individual case, however, this loyalty can render the individual perpetrator criminally guilty. That becomes clear when we listen to the secret speech of Himmler at Posen when he addressed SS Obergruppenfuehrer of the home country and of the rear army area. That was late in the war - October, 1943 (PS-1919, SS Document 98). After various statements concerning obedience and the possibility of refusing to execute orders, he says quite clearly:

“But he who proves unfaithful, be it only in his thoughts, will be thrown out of the SS and I, Himmler, will see to it that he disappears from among the living.”

This, gentlemen of the Tribunal, is an important fact when considering the question of guilt in the individual case and the question as to what extent coercion and obedience to orders, during the war, eliminate the guilt and thereby the criminality of certain individual persons or subordinated groups. This is additional to the question of refusal of military service and its consequences according to military law.

The supernatural, I can even say devilish, power of this bond of loyalty was exemplified by Himmler himself in his relations to Hitler during the last days of the war.

The Swede Count Bernadotte describes, from his own experience, in his book *The Curtain Falls*, how Himmler could not make the decision to save the German people from destruction by calling a halt to hostilities because - and Bernadotte admits this - even in this hopeless situation he dared not violate his loyalty to Hitler. We also know how in all times and with all peoples it has always been this loyalty that made soldiers fight to the last drop of blood in the heaviest battles, just as the Waffen SS did, who in so doing won the respect of their opponents in this war. And from these two examples we see how this hypnotic word, “loyalty,” embraces alike criminal madness and the highest virtue of the soldier.

So much for the question of how far the SS man had knowledge of the points of the Party Programme - if indeed he knew them sufficiently, which from the affidavits of 136,000 SS men is doubtful - and how he viewed the ideals of his organization. But did not the Nazi leaders plot war from the very beginning? Mr. Justice Jackson asserts this, and I answer: According to the knowledge that we have today, I admit it, yes. But how could the SS man know of it?

The prosecution does not say why the conversion of an army of professional soldiers into a people's army should signify the planning of an aggressive war. Switzerland, the best example of a country with a people's army, has not been engaged in a war for a long time. Was the sponsoring of physical training and sports activities of youth a camouflaged plan for military training? In my opinion Mr. Justice Jackson failed to give us the proof for that assertion. The training of the General SS was non-military. Field sports as practised by the SA were completely lacking, and - a typical example - the cavalry units of the SS, which were numerically smaller than those of the SA, did not even give their members the right to hold a horsemanship certificate, as was the case with the SA. (Compare the testimony of Weikowsky-Bideau before the Commission.)

We know today that Hitler wanted war; it is particularly clear from the intimate conversations with Rauschnigg and when we consider the events as a whole. But, gentlemen of the Tribunal, please note: It is *ex post*.

It would have been a fruitless undertaking, especially in view of the position in which the German people found themselves after the First World War, to present a new war as less shocking or bad, or even as a noble and necessary undertaking, to use Justice Jackson's own expression. Hitler, whom you can accuse of everything, but certainly not of not knowing the facts of mass psychology, stressed again and again before and after 1933 that he wanted peace, peace and nothing but peace. He pointed out that he had experienced the horrors of war on his own body, that war always meant

a selection detrimental to the most valuable elements in any nation. And only by these means was he able to win over ever-increasing numbers of the German people to himself and to his ideas. With propaganda for war, however carefully conducted, he would never have achieved it.

Rearmament was represented to the German people as being merely a confirmation of the will for peace, as a defensive measure against the non-disarmament of other nations and as a counter to any attempts to interfere with the peaceful rebuilding of Germany. The building of the West Wall confirms it, and so do many utterances of foreign military experts. The high-ranking major defendants and many witnesses, including such a reliable witness as Gisevius, have confirmed that not even in the leading circles a planning of aggressive war was discussed. This applies to the SS to an even greater degree. The entire training with the organizations always centred around the idea that the Party Programme would be carried through in a legal and peaceful manner, that peace was absolutely necessary and should be preserved at all costs. Not only was there no psychological preparation for war in all the SS organizations, but on the contrary, the peaceful aims of the Reich were continually stressed.



Overview of the mass roll call of SA, SS, and NSKK troops. Nuremberg, November 9, 1935.

In this connection, I would like to ask the High Tribunal to read Documents SS-70, 71, 73, 75, 76, 77, 78, 80, 81, 82 from the years 1933 to 1935, particularly an article from the Schwarze Corps entitled "The SS does not love war," written 1937, and other documents which I am not quoting. That psychological preparations for war were lacking among the German people and also among the SS was never more clearly demonstrated to observers at home and abroad than by the reaction of the masses to the Munich Pact in 1938. The jubilation of the masses, including the SS who formed the cordons, was not meant for the Adolf Hitler who had enforced the cession of the Sudetenland, but rather for the Hitler and, to an even greater degree, for those foreign statesmen who had saved the peace.

For the German people and the soldiers did not want war, and - this must be stated in this historical place for the sake of historical truth - when war came in 1939 they accepted this fate not with loud rejoicing as in 1914 but in solemn silence, most of them in the erroneous belief that their leaders did not desire this war - that it was not a war of aggression.

However, it would be unworthy of me and I should lose face if I attempted to deny that the young Germans, particularly in the SS, saw their ideals in the manly virtues, those same virtues of self-assertion and refusal to take things lying down - cherished by other nations too. It may be that the SS men over-emphasized those virtues in a manner which was not always good or wise. But none of the old soldiers, students and farmers who had joined the SS imagined that war was for a purpose even remotely akin to what Hitler had in mind. If Hitler had ever dared to speak to those men of attacks on other peoples with whom he had just concluded solemn pacts of friendship, or of Einsatzkommandos in foreign lands, he would never have found any followers, apart from a handful of desperadoes. The war which the tall, blonde, and perhaps intellectually not always very alert, typical SS man imagined - and I must admit that he did not shrink from it - was the kind of war which his ancestors before him had waged during many

centuries, and which, in the last resort, always ended by an appeal to destiny - the great gamble of the gods. It is true that we have to wean the Germans, and particularly the younger Germans, from this atavistic longing - and in this respect I am now more optimistic for my fellow-countrymen than for many other peoples - but war, which at present it does not appear possible to extirpate - the Kellogg Pact and modern International Law do not ban war as a means of defence and self-preservation - is essentially different from that high treason, that betrayal of world peace, that attack and robbery for the purpose of extermination, which was invented by Hitler.

In addition to its general aims and tendencies, with which the prosecution charges the SS since the very beginning of its activities, and on the basis of which it seeks to declare it to be a criminal organization, there is one outstanding event which it is alleged, discloses its criminal character in a striking manner - the killings which took place on 30th June, 1934.

There are three pages, your Lordship (Pages 18 to 20 for the interpreters), which furnish evidence on these events, and which I pass over in order to save time.

The events of 30th June, according to my presentation of the facts, are by no means as significant as the prosecution would seek to assert. The members of the SS did not see in them the beginnings of a criminal development.

I have reached a point in my review of the ideas held by the SS and its activities where we should pause to consider what the other factors were which led to the holding of these opinions.

We must look the true facts in the face. The SS man, unlike an opponent, or an intellectual of our stamp, so ridiculed at that time, did not examine with a critical eye everything that was said about his Fuehrer, about his country. He felt the need to believe in something - I will give proof of this - his belief was not shaken by what was being said in the world

around him. Unfortunately, the world around him did nothing to shake his belief.

Your Lordship, I have just come to the end of a chapter. Would it be in order to adjourn now?

(A recess was taken until 1400 hours.)

DR. PELCKMANN: I have said, your Honour, that the surrounding world, unfortunately, did nothing to shake this belief in Hitler.

And what I shall now discuss does not serve to declare others guilty, and to distract from one's own guilt if it exists. No - these statements are intended to clarify how we all, the whole world - in part, likewise deceived about the true danger, in part in the hope that we would thus best master this danger - did something which, in its effects on the whole German people, Hitler's followers, and his SS men, had to be interpreted as confirmation of the correctness, the legality of his intentions and his deeds.

I can understand that this evidence was declared irrelevant for the defence of the individual defendants, for they are being charged precisely with having deceived the world consciously. Then, one cannot take the conduct of the world as an index for its credulity. In the case of the organizations this problem is different.

The prosecution will not seriously charge the mass of their members, even the mass of their leaders, with having known of the criminal aims and intentions of Hitler and still less will they be able to prove this. I have just shown how the events up to about 1934/35 had to appear to the SS man. Thus, the objections of the prosecution, which are worthy of consideration for the principal defendants, do not apply to the organization which I am defending.

What was the situation at that time? (I quote essentially from Jasper's *The Question of Guilt* [Die Schuldfrage] Pages 82-83.)

In the early summer of 1933 the Vatican concluded a Concordat with Hitler. Papen conducted the negotiations. It was the first great confirmation

of the Hitler regime; a mighty gain in prestige for Hitler.

All States recognized the Hitler regime. One heard voices of admiration.

In 1935 England concluded the Fleet Pact with Hitler through Ribbentrop.

In 1936 the Olympic Games were held in Berlin. The whole world flocked there.

In 1936 the Rhineland was occupied by Hitler. France tolerated it.

In the spring of 1938 Hitler moved into Austria amidst the acclamation - still undeniable today - of the overwhelming part of the population.

In 1938 an open letter from Churchill to Hitler was published in The Times, in which there occurred sentences like this one:

“Should England be overcome by a national misfortune comparable to the misfortune of Germany in 1918, I would ask God to send us a man of your strength of will and of spirit.”

How is it possible that in all these years, foreign diplomats and leading men - accompanied respectfully by SS men with whom they had confidential conversations - at Party rallies, in the Reich Chancellery, and in the Ministry, shook the hands of murderers and men guilty of arson? What effect did that necessarily have on the SS men, who considered these hands pure and clean?

The general situation in the years 1933 to 1939 is characterized by Roepke in his book, The German Question (Die Deutsche Frage), which was published in Switzerland. Because of the lack of time I will not read the quotation, and I ask the Tribunal to read it for themselves.

At that time the world still considered what happened in another State as an affair which did not concern it. Only as a result of the experience with the Hitler regime and the second world conflagration is the solidarity of the great States, and we hope one day that of the United Nations, seeing to it that dictatorship and undemocratic methods in all countries do not lay the cornerstone to new world conflicts. I cite the remonstrances of the United

States because of the internal government conditions in Argentina a few months ago.

Now, before I turn to the particularly criminal activities of the SS which the prosecution have listed, I should like to interrupt the consideration and evaluation of material with a few statements on the law of the Charter and on the rules of procedure. I did not want to bore the Tribunal with this at the beginning, first I wanted to create a factual atmosphere in which the legal argument would gain strength. My arguments will be as brief as possible, for much has already been said in this connection by my colleagues, and I fear that more will be said, and the Tribunal is also acquainted with the memorandum of my colleague Kleefisch. I hope that my statements may clarify what I have already discussed, and I hope that they may give insight into the undergrowth of the small part of the voluminous factual material which I can offer in the remaining period of the three hours which were granted me for my speech.

The legal nature of the Indictment against the organizations and the possible finding of an organization as criminal must be cleared up. The general statements of the defence regarding the possibility of the organizations' committing offences are known to the Tribunal. I consider them fitting and correct. And yet one must ask the question: Who is really indicted according to Article 9 of the Charter? Are these really the formations as former legal entities or are they not rather, in reality, the millions of individual members who, merely represented by one of the principal defendants and represented by the dead formations, are sitting in the dock? It is, after all, the individual members who are accused. This follows from a thorough consideration of the whole complex of questions. The Trial will not decide on the fate of the former organizations which are not alive and can never become dangerous but only on the fate of the many members. A glance at Article 10 and the disastrous consequences of the declarations of criminality confirms this. Declaration of criminality

constitutes an unassailable decision of guilt in advance for possible charges under Article 10.

It is true that for subsequent proceedings, it will be up to the prosecution whether they consider it expedient to indict the individual member. But this does not change the basic idea.

The declaration of criminality thus bears the character of a declaration of guilt in advance for each individual member of the organization. If the individual is not indicted later, he receives no punishment, it is true; but he is nevertheless a criminal according to legal decision. The character of criminality does not affect the organization as such, but in reality - since the organization as such no longer exists - exclusively its former members. Before you, your Honours, the main trial against each individual one of these members is proceeding. The issue is the establishment of his punishable action, "membership." The most important declaration of guilt is made against each individual. The concept of guilt, however, in all civilized States of the world, is always, within the meaning of the law, connected with the individual deed of a person. There has never been guilt of organizations. No one could object to declaring the aims and purposes of an organization criminal if individuals were not affected thereby. But as soon as the declaration of criminality of the organizations is to be the indirect condemnation of individuals, one must conscientiously examine and establish the individual guilt of each individual.

This conclusion is reached for another reason as well: What does the concept of organization include? That an organization is a union of people is clear. That this union, at least in general outlines, pursues unified aims and purposes and has a corresponding constitution should also be clear. Whether it includes the characteristic of voluntariness is, on the other hand, extremely doubtful. No one will deny that the German Wehrmacht was an organization although there can be no question of voluntariness, not even in the majority of the cases. One may think further of occupational groups,

schools, or even compulsory guilds, in which there is no voluntariness of joining, but which are certainly organizations. The Kleefisch Memorandum as well as the basic decision of the Tribunal of 13th March, 1946 (Paragraph 6, No. 2), introduced the characteristic of voluntariness into the terminology - in my opinion, quite correctly. But why? Fundamentally only because otherwise the aftermath of declaring the organizations criminal would appear unjust in view of the consequences for the individual members. What follows from this? Very much. One sees here quite clearly that in reality what is involved is not the organization but the members. The decision of 13th March, 1946, considers relevant only the question of whether membership was in general voluntary; it therefore takes into consideration that involuntary members will be affected. In view of the consequences of Law No. 10, this is not reconcilable with the idea of justice.

Constitution, aims or purposes, and activities of the organization - whether on a voluntary basis or not - are criminal if they fulfil the conditions of Article 6; that is, if they were aimed at Crimes Against Peace, War Crimes, or Crimes Against Humanity. In connection with No. 6 of the decision of 13th March, 1946, the individual characteristics of Article 6 of the Charter are to be carefully examined here. One should ask, for example: were the constitution, aims, purposes, or activity of the SS aimed at the planning, preparation, starting or execution of a war of aggression, at the violation of the rules of warfare, or at murder, extermination, enslavement, and so forth?

These latter crimes of Paragraph 10 of Article 6 of the Charter, however, are punishable only if they were committed in execution of or in connection with another crime punishable under the Charter; that is, in connection with Crimes Against Peace or War Crimes. This is how one of the authors of the Charter, Mr. Justice Jackson, explained it in his statement,

which is added to the text of the Charter in the Department of State Bulletin of 12th August, 1945, on Page 228.

I ask you to read the English text:

“We have taken another (step forward) in recognizing an international accountability for persecutions, exterminations, and Crimes Against Humanity when associated with attacks on the peace of the international order.”

I have already explicitly shown, that in the examination of the charges of the prosecution in connection with Article 6 of the Charter, the judgment must adapt itself to the time of the programme point in question or of the allegedly criminal act.

After establishing that the crimes were without doubt committed, the question of whether the organization as such is to be designated as criminal will depend on how many or - in proportion to the millions of members - how few SS members took part in these crimes. Did an organization really act or did only relatively few members act who perhaps - paradoxically - frequently had not even joined the SS voluntarily?

That it must not be overlooked at what period the individual crimes took place the High Tribunal has already affirmed in its decision of 14th January, 1946. If at all, then it is quite possible that the organization or a part of it was criminal only at certain periods of time. Designs and plans once made could perhaps appear criminal only through later misuse, although they were originally not destined to be so. An axe, when forged, never knows upon leaving the anvil whether it will perform useful service for humanity or will one day be misused, as an instrument of murder, if only - to follow the metaphor through - with its detached wooden handle.

That such limitations in regard to time and personnel are necessary is shown by the following examples: The Indictment says on Page 5 that between 1933 and 1935 unsuitable members were expelled. I may add that these were about 50,000, or one-sixth of the membership; people, who - this

is shown by the most varied testimony and affidavits - on the basis of their previous political attitude had only sought camouflage; also previously convicted persons and other unreliable elements.

Even these persons would not be excepted from the Indictment and the consequences of the declaration. Such a grotesque result cannot possibly be desired.

Finally, according to No. 6a (3) of the decision of 13th March, 1946, the evidence will have to be examined to see how far the knowledge of the individual members reached. This question will be decisive for the judgment on the masses of the SS.

I said before that even if the SS organization, the no longer existing organization, is formally indicted, the Indictment is nevertheless, in effect, directed against each individual member. If now the criminal character of the organization is to be proved through criminal acts of the members, then the member who is supposed to have committed this specific crime must have an opportunity to answer to you, your Honours.

If he cannot do this, then the Court will not be in a position to know whether the accusations are true. Then how will the proceedings be carried out according to the Anglo-Saxon corporate penal law? The leaders and the members are heard in detail on the specific accusations made against them - the Court does not judge on the basis of unfavourable testimony of witnesses without the leaders and members of the organization who are personally affected by this testimony having an opportunity to comment on it.

How little the Court can base its judgment only on the testimony of witnesses, without hearing the accused person or persons, is shown by the astonishing experiment which I undertook with the witness Israel Eisenberg on 7th August, 1946 (see the English Transcript, pp. 15283, 15284). I showed him two pictures from a document, PS-867 in Polish, Exhibits SS Nos. 2 and 3, from which I cut off the captions under the pictures. The witness called the two men pictured SS men and named their SS ranks. He

deduced these ranks exclusively on the basis of the epaulettes and insignia on the sleeves.

The witness Morgen, whom I examined on 8th August, 1946, immediately recognized as an expert that the men pictured were not wearing SS uniforms, and were not SS men. He pointed out that these photographs showed the epaulettes of the police, and on the sleeve the insignia of the police. In the photograph Exhibit SS No. 3, which is in the hands of the Tribunal, the police insignia can also be clearly seen on the cap: the eagle completely enclosed in an oval wreath of oak leaves. Nowhere, your Honours, is the SS insignia to be seen. All other photos in this book also show only police uniforms and police insignia. But all of this did not strike the witness; he considered these men "SS men." That was only a minor example of the power of observation of the witnesses with regard to uniforms.

Please consider further how slight the difference is between the uniform of the SD and that of the SS - only a small SD rectangle on the sleeve - and that non-members of the SS wore this uniform (compare the testimony of Dr. Best and Reinecke before the Commission); that it was precisely in the rear army area that the police were employed, while the SS were at the front, that the mass suggestion of the guilt of the SS distorts the memory of the witnesses; then, your Honours, you will be able to realize the true value of the testimony of non-German witnesses who arbitrarily designate "the SS" as the perpetrators of any crimes committed in the occupied countries.

The incompleteness of a collective indictment, which is raised here for the first time in the long history of law, is based particularly on the difficulty of taking testimony for the accused organization in a fair manner. This difficulty arises of necessity from the peculiar nature of the proceedings, particularly from the fact that it is technically hardly possible, or possible only through proceedings lasting for years, to clear up every concrete charge in a satisfactory manner by hearing the specifically affected

members of the organization, and to establish whether each charge is justified or unjustified.

As long as in such a trial it is impossible for the defence immediately to produce each individual member of the organization who is impeached by prosecution witnesses or documents, and to get him to make a concrete statement, as well as to hear further witnesses on this case, this trial remains incomplete and unsuited for true justice.

It follows of necessity that to a large extent the cases of the prosecution and the defence bypassed each other without being able to give the Court a picture of the true state of affairs in large parts of the Indictment. Only thus could the grotesque picture arise that we experienced repeatedly during the defence case; that is, a defence witness describing his activity and the units and SS men under his command. It covers sectors as large as possible in regard to subject matter and territorial extent, since the Court permitted only a minimum number of witnesses in proportion to the total membership, and any individual testimony of a little man was inadmissible according to the decision of 13th March, 1946. The prosecution would now have had to attempt to break down the testimony of the witness in cross-examination. The surest and simplest method for this would have been to throw doubt on the credibility of the witness by showing, for example, that he himself had committed a crime or that something of the sort had been done by people under his command.

Although the prosecution had many weeks to examine its records and those of all the Allies, which records had existed for months, yes, for years, and although these 29 witnesses before the Commission and before the Tribunal had held middle, high, and highest positions, the prosecution could not prove any such thing against them. Is not this fact the best refutation of the contention of the criminal character of the SS? Is it not symptomatic if the prosecution did not succeed in accusing or convicting one of the highest generals of the fighting Waffen SS, a very high-ranking Fuehrer of the

General SS, at the same time Higher SS and Police Leader and Police Commissioner - an extremely rare case - of the third largest German city, a staff officer of the administration of the Waffen SS who was repeatedly in service at the front, and two high SS judges, of committing or tolerating crimes? Later on I shall discuss the case of the witness Sievers, the only case which was different. Thus the prosecution had only one recourse: it consciously brought forward documents or affidavits which were to prove that crimes had been committed, but with which, even in the opinion of the prosecution, these SS witnesses themselves had had nothing to do. Nevertheless, the prosecution asked the witnesses whether they knew of the events described therein. Were they thus seeking to discover the truth for which this taking of evidence was intended, or was further evidence for the prosecution merely to be introduced at a time when the case of the prosecution had already been closed? These documents are for the most part Government reports on investigations which have not yet led to any trial or judgment - particularly in the partisan territory in Yugoslavia, which are very difficult to judge. Their evidential value must be very slight.

Can the new documents and affidavits introduced thus in enormous numbers make it possible for the Court to answer objectively the question of whether the deeds actually took place, and thus whether the SS is criminal? Would not the Court have to hear the accused, that is, the SS men who were mentioned by name in the documents, or members or officers of the accused SS units? After the experience with the ability of the witness Eisenberg to distinguish uniforms, I ask, is it convincing that these people say, "They were SS men"? Or were they police or SD and Gestapo members? In part such errors arise obviously from the documents. But I cannot and do not wish to deny that according to a few documents terrible crimes have been established, and that they are numerous. Should not the defence have an ample opportunity to comment on these documents and affidavits with as much preparation as for the evidence which the

prosecution presented in November, December, and January? Should it not be given a few months' time? I do not fail to realize that my demand would mean a prolongation of the trial for months, in so far as the case against the organizations is concerned. But if for any reason -

THE PRESIDENT: Dr. Pelckmann, the Tribunal has already ruled again that the trial has got to conclude now, and therefore any argument that you should have three more months is entirely irrelevant and cannot be listened to. The Charter lays it down. It is for the Tribunal to say how the individual is to be represented, and we have laid it down to the best of our ability.

DR. PELCKMANN: If for these reasons the judgment cannot be delayed so long, then it must be passed now; but since, in my opinion, the new evidence of the prosecution can only be used with this reservation, it (the judgment) can consist only in the rejection of the application of the prosecution.



Sepp Dietrich meeting his soldiers at the Russian Front, January 1945.

I must add something. I asked myself whether I should deal at all with the Erhardt affidavit, D-973, from the Neuengamme camp. But it is necessary; because it is typical of the evidence of the prosecution in this last stage of the trial. It is necessary at the last minute, when it is no longer possible for the defence to carry on investigations on the spot. I refer you to the decision of the Court of 1st August, 1946, which does not permit the defence to visit camps, in contrast to the prosecution. Their administrative machine -

THE PRESIDENT: Dr. Pelckmann, if you are proposing to deal with the rules which the Tribunal has made with reference to the hearing of individuals, the Tribunal will not hear that. The Tribunal has done the best it can to enable individuals to be heard, and the Tribunal does not propose to listen to you criticizing what the Tribunal has done.

DR. PELCKMANN: I believe there is a misunderstanding, your Lordship I am not criticizing. I am dealing with the Erhardt affidavit, with the evaluation of this testimony.

THE PRESIDENT: Very well. Go on.

DR. PELCKMANN: This affidavit cannot affect the value of the affidavits of the SS members. It refers only to the interrogatory, which does not come from me, and the answers - there are altogether only 40 000 - which I did not utilize.

I submitted 135,000 detailed affidavits to the Tribunal, and I summarized them. The methods described by Erhardt could not be used in them. As evidence of this, I should like to ask you not only to read the summary but also a few of the very conscientious and descriptive affidavits themselves.

The Erhardt affidavit itself is full of contradictions, improbabilities, and exaggerations. Erhardt was an SS man and is now in the service of the British authorities. Of course, he does not want to lose his position. Therefore he has every reason to make himself popular.

Can a single affidavit on the ostensible circumstances in only one camp, the actual and psychological reasons for which are so doubtful, shake the value of 135,000 detailed statements? No, your Honours. This attempt of the prosecution to shake the value of the whole legal hearing guaranteed by the Charter can remain only an attempt. It lies in the nature of the defence in this trial that it unfortunately does not have the possibility of ascertaining the sources of such mistakes in the obtaining of mass material by the prosecution, and of criticizing it.

I am of the opinion that the evidence put in by the prosecution, in so far as it may be considered in view of what has just been said, forces the defence to the conclusion that crimes in considerable extent were committed by members of the SS; but not that the whole SS organization is criminal.

Is it not striking - and I should like to settle one point of the Indictment immediately in this discussion of procedural and evidential questions - that there are only two judgments concerning the inhuman fighting methods of the SS, for example the shooting of prisoners, one against SS General Kurt Meyer (Normandy front) and the other against SS General Sepp Dietrich, and 73 officers and men of his army? That, gentlemen of the Tribunal, is the sole result of the most energetic and comprehensible efforts in support of the contentions of the prosecution, on the part of all the Allies for more than a year.

Must one not conclude therefrom that in spite of this long period of time it has not been possible for the Allied prosecution to pass judgment on more crimes? The death sentence against Meyer, with which I am acquainted, was reprieved. The trial of Sepp Dietrich and his men, the record of which I was not able to obtain, ended with 43 death sentences, but it is striking that the highest leaders did not receive this punishment. This must force us to the conclusion that no such criminal orders were given by them, and consequently there was no criminal system. The defence brings forward

some noteworthy objections against the methods of investigation and of accumulating evidence.

I should ask you to note the following, High Tribunal: These happenings occurred in the last half-year during the most violent part of the war, and concerned only very few members of the Waffen SS.

At the same time please remember the extensive counter-evidence given by witnesses and affidavits, which the defence procured also for this particular point of the Indictment, e.g., the training for and waging of fair warfare; and the excesses committed by the enemy. This evidence was only meant to prove that from such occasional excesses in battle, one cannot postulate a criminal system.

In this connection allow me to develop another principle which to my mind must be the basis for the proper evaluation of the evidence in these proceedings: Where any doubts may arise as to whether the individual charges are proven by the evidence, the weakness of which I have just made apparent, particularly also where doubts arise as to whether proved individual crimes may be said to be typical and that, therefore, the entire organization, that is, all its members, can be considered criminal; where, therefore, one counter-proof, or item of circumstantial evidence, is given by the defence as against ten or a hundred proofs or items of circumstantial evidence by the prosecution, I believe that the Tribunal cannot draw any conclusions which are sufficient for a condemnation in the sense of the indictment.

This is a fair logical conclusion arising from the nature of these proceedings. From the tremendous evidence at its disposal, the prosecution has chosen and charged some incriminating facts, and then made the assertion that these were typical cases, that they were the same everywhere, that these actions were typical of the SS, etc. As already stated, it is the sole responsibility of the defence to furnish exonerating evidence. And this is where the difficulties for the defence of the organizations, particularly of

the SS, begin. The organizations have been dissolved; they exist no longer. When we accumulated the evidence most of the members of the organizations and all their leaders were in custody and many of them still are.

The occupational authorities have secured the entire written evidence, all personal acts, correspondence, decrees and orders. It is true that we have been able to speak to most of the prisoners, but after so many years, and particularly in questions of detail, the information was bound to be incomplete, and was not given until April or May, as it depended on the progress of the stage reached by the trial. We could not always reach the competent persons. In connection with the question of the legal hearing, I would ask you to consider that we have no evidence at all from SS men from Austria and the Soviet-Russian zone of Germany. For reasons of security we could not be allowed to conduct a research in the Allied document centres in which the confiscated documents are classified according to subject matter, and thus we were not able to obtain good documentary information. We could not counter this deficiency by an approximate indication of the documents based upon certain assumptions, because a specified indication was demanded. As things stand the counter proof must be considered successful if the defence succeeds in establishing but a shadow of a proof for their counter-evidence.

And now for lack of time I shall omit two pages, your Honours, 32 and 33, and I shall deal with the charge of the participation of the SS in the pogrom of 19th November, 1938. The next four pages deal with that, which I must also omit for lack of time, pages 33 to 36. I ask you to read them.

THE PRESIDENT: Dr. Pelckmann, you say that you have only got to pages 32 and 33?

DR. PELCKMANN: I want to start on page 36 now. But as far as I am informed, your Lordship's copy is longer. I am farther on.

THE PRESIDENT: I do not have a copy at all; but I do not understand how you are proposing to finish your speech, if your speech is, as I am told, about 100 pages long.



Fritz Witt (left) and Kurt Meyer (right), in Kharkov, March 1943.

I tried to point out to you at an earlier stage that the sort of general topics which are very familiar to us were topics which you might just as well pass over, and you said "Very well; I am going to shorten my speech. I have taken steps to shorten it."

Now we find that when you have been speaking for nearly two hours, you have not got any farther than page 33. All I want you to understand is that you will not be allowed more than a half-day.

Now, will you go on, please?

DR. PELCKMANN: In the pages which I am omitting, I have dealt with the events of November, 1938. I will add that if, in connection with the arrests, which were purely a political matter and were the business of the Gestapo, some officials may have had black uniforms on, this did not make it an SS action. Gestapo officials also wore black uniforms. This would be a typical erroneous generalization which can be traced back to the fascination of the black uniform and of the SS insignia, and whose falsifying influence upon truth and recollection must not be underestimated for the entire proceedings against the SS.

This insignia, in its insolent aggressiveness, was not only dangerous in the past through its publicity value, because through its doubling of a Germanic rune it awoke romantic historical feelings in the German, but even today after the destruction of all the myths surrounding it, it has the peculiar power of preventing any clear conception as to its nature. It is so easy to mention the SS without any clear conception as to its real meaning.

There exists the danger that an historical myth may be born which like any other such myth is based upon ignorance of the facts, or, even worse, upon a half-knowledge of these facts. We, who combat the Hitler myth wherever we can - we have done so in the evidence before the Tribunal - do not wish that a myth should be formed around a group of people under the slogan "SS," around the guilty and innocent alike. We do not want to help to create so-called "martyrs" in the interests of a neo-Fascist propaganda.

That is why we must ask a definite question and give the answer: “What is the actual meaning of ‘SS’?”

The decisive error of the Indictment is that all, or at least all essential spheres of activity of Himmler’s, are considered as activities of the SS. Without heed to the origin or tasks of the many agencies and units under Himmler’s command, without heed whether there ever existed any organized ties or links, the Indictment assembles the General SS, Waffen SS, the SD, the police, the concentration camp system, the affairs of the Reich Commissar for the Consolidation of German Nationalism, the activity of the Chief of the Prisoner-of-War System and others, in one great imaginary unit, the SS. The Indictment must proceed from such a unity in order to create a basis for the evidence that within the framework of an alleged conspiracy all sectors of the public life in the State, in the Party, and in the Wehrmacht were permeated with this SS, this monster which had spread its tentacles over Germany and Europe.

That Himmler’s activity was identical with the activity of the SS is only true for the period until 1933 or 1934. Only until then did an organized unity in the SS exist, and the prosecution has taken over this idea of the unity of everything which they call SS from this time, thus falsely interpreting the actual developments. The SS was a part of the SA and therefore a section of the NSDAP.

The seizure of power opened an era in which a great part of all supreme and superior State positions were filled with Party Leaders. From this time on, Himmler goes his own way at the side of the SS. First - in comparison to other high Party members - extremely cautiously, and then in an ever more determined way. It was mainly Heydrich who awakened Himmler’s interest for State affairs, for power politics. Himmler, like many of the SA leaders, had become Police Commissioner, and that in Munich in 1933. Soon he was made Chief of the Political Police in Bavaria, and then in the other States of Germany, with the exception of Prussia. Here, Goering was

still Chief of the Gestapo. But soon Himmler became his deputy and Heydrich the leader of the Secret State Police Office in Berlin. Himmler's ambition for the widening of his power in the State, which the SS could not offer him, now became ever more obvious. His goal was the Ministry of the Interior. As early as 1936 he gathered the entire police power of the Reich, which until then had been the affair of each State, in his hands, in his capacity as Chief of the German Police. Thus he had become the highest superior not only of the Secret State Police and of the Criminal Police, which is jointly named the Security Police, but also of the entire ordinary police in Germany. Only now did he hold a position of power which was of the greatest importance, and it was given to him by Hitler and not by his SS, and not through the SS or for the SS. I ask the Tribunal to consider that these police organizations existed independently besides the SS, before Himmler became their chief.

In 1939, he was made Reich Commissar for the Consolidation of German Nationalism and was thus assigned a new task, the transfer back of populations, etc.

Then, in 1943, he was actually nominated Reich Minister of the Interior.

Through his personal allegiance to Hitler, and through his acceptance of any and every new task, he gained the personal confidence of Hitler and thus continually extended his personal position of power within the Reich. It was peculiar to this Reich that Hitler should have united an almost inestimable number of offices and tasks in one single person who had his confidence. As an example, I refer to Goering. While Goering continued to lose Hitler's confidence, Himmler's power rose like a meteor. But he had gained this position of power for himself alone and without the help of his SS, and quite independently of the fact that he was their Reichsfuehrer. The witnesses Grauert, Reinecke and Pohl have amply testified to this effect.

The SS, formerly so closely connected with Himmler, had indeed, in the course of time, developed quite independently, owing to the great number

of the entirely different sections which began to take shape. Unfortunately the briefness of the available time does not permit me to describe here this development in detail, although it is of the greatest importance to the entire defence. But I have added the necessary explanations, always in regard to the furnished proofs, as an annexe to my plea, and I would ask the Tribunal to take note of these arguments in the verdict.

To prove the unity it has asserted, the prosecution says that the General SS was the basis upon which all the other organizations had been established. The mere fact that almost a million men have at one time been in the Waffen SS, whereas the General SS had only counted 250,000 members, refutes this statement. In the aforementioned annexe I have shown how the individual organizations were built up, added to and developed, according to their own intrinsic nature. The General SS is not the source of life for the other organizations, but an ancient vestige which at first succeeded in keeping alive, but which during the war had to disappear altogether for lack of any special task. (Witnesses Eberstein, Minderfeld, Jettner, Pohl.)

But the Indictment did not mention the most important aspect. To my mind, this is an aspect which is particularly valuable in shedding light upon the question of the imaginary unity of the SS: Where lay the executive power in the State? For an alleged conspiracy only such an instrument could have been suitable which controlled some means of the State authority, which had executive power in the State. Neither the General SS nor the Waffen SS were such organizations. At no time of their existence did a leader or a simple member of the General SS have more extensive rights in the public legal and especially police field than any other German citizen. He could not and did not at any time carry out arrests or house searchings without incurring punishment. (Witnesses Reinecke, Eberstein.)

The fact that revolutionary excesses were committed, immediately after the seizure of power, does not alter this fact. They were at once successfully

combated, as testified by the witness Grauert. No member of the Waffen SS ever had more extensive rights than any member of the Wehrmacht. (Witness Hauser.) Indeed the executive power in the State was alone in the hands of the police, the State Police, the Criminal Police, combined as security police, and the ordinary police. A policy of power in the sense of an alleged conspiracy could logically have found support only upon them.

The testimony of the witness Grothmann, who belonged to the closest circle around Himmler, is particularly revealing for the question as to which activities of the SS are to be considered connected with the executive power. In this testimony he tells us that Himmler was informed of the affairs of the Waffen SS by adjutants of the Waffen SS, and of police affairs by police adjutants, while the General Secretariat had to inform him of the other affairs of the General SS.

In this case as well, the sharp separation existing among the various fields becomes very clear. The essential point here is that all matters concerning the concentration camp system and the totally different sphere of the SD were not dealt with and reported on by the SS adjutant, but rather by Himmler's own police adjutants. In this way the testimony given by the witness Reinecke, who testified as to the judicial basis for the separation into five independent spheres of influence under Himmler in the sense of the Indictment, into General SS, Waffen SS, SD concentration camp system, and police, is again being reaffirmed.

Executive power is indeed the key for an understanding of the charges raised under the Indictment and for a just evaluation of this case. In the beginning, Himmler was on the side of his SS and was entirely absorbed by it. After the police power of the entire Reich had been transferred to him alone, the only thing he concerned himself with was this one sphere, the sphere of executive power. He played the leading role in the rapid development of Germany into a police State. Very soon he let every last vestige of regard for any and every legal consideration go by the board. On

top of that he continued to follow the path he had chosen for his organizations, General SS and Waffen SS, and withdrew behind a heavy curtain of secrecy, hiding himself and the excesses of his police activity from these organizations as well as from the entire nation. It is quite impossible to understand all this if one does not realize and appreciate the fact that Himmler had a Jekyll and Hyde personality. On the one hand he preached and fostered ethical values, such as decency, manliness and courtesy, using as his instruments his organizations, the General SS and the Waffen SS. On the other hand, he exploited his tremendous power by issuing the most uncompromising orders and measures of a police State nature. Here I refer to concentration camps, mass executions without trial, and the Einsatzgruppen.

Here and here alone he used the instrument of the executive power in the Reich. It was not surprising, therefore, that in the few speeches he made during the war in which he showed his obsession with his State police troops of the future, he met with opposition among the leaders and the troops of the Waffen SS; for these men were soldiers and were fighting the enemy. It is quite understandable that the prosecution should consider this first side of Himmler's nature to be but a whitewash for the second. But nothing could be more erroneous than an assumption of this sort. It is not coincidence either that the defendant Seyss-Inquart from his complete knowledge of developments, and the witnesses Hausser and Reinecke, who because of their former high positions and their present knowledge have an overall picture of events, describe Himmler as a man who had two totally different faces. And when they say that, they are in good company; for on the strength of his many conferences with Himmler, Count Bernadotte says exactly the same thing in his book, *The Curtain Falls*, which has been quoted frequently.

Himmler, therefore, is not the SS. The fact that he is referred to as the "Reichsfuehrer SS" in all laws and directives which gave him new missions

to accomplish does not alter this situation in the least. As the witnesses Reinecke and Kubitz have stated quite correctly in this regard, his official position and title had, to all practical purposes, replaced his name in public life. Specialized departments like the police and the Reichskommissar for the Consolidation of German Nationalism (Volkstum) or the position of Commander-in-Chief of the Reserve Army, and the Chief of the Prisoner-of-War System, did not become concerns of the SS just because they were transferred to the person of the “Reichsfuehrer SS,” that is Himmler.

However, that is something asserted by the prosecution, and in order to support their position, they state further that as soon as Himmler took over new offices he immediately started to infiltrate them with members of the SS. That is equally wrong. The witnesses Zupke and Bader have confirmed that some of the members of the Ordnungspolizei were taken over into the General SS and not vice versa. An infiltration of the police therefore never took place. As far as the Security Police is concerned we can see from Himmler’s decree of 23rd June, 1938 (Document 1637-PS), that the officials and employees of the Security Police were taken over by the SD, and received police ranks commensurate with their SS ranks and not vice versa. They never served in the General SS for even one day.

The testimony of the witness Zupke, who was interrogated before the Commissions on 20th May, 1946, and Affidavit SS No. 82 prove that roughly twenty different categories of members of the Ordnungspolizei became formal members of the SS when, on the strength of ministerial directives, they were granted ranks in the SS commensurate with their police rank. This so-called “Co-ordination of Rank,” however, did not establish true membership, for the policemen involved did not take the SS oath, did not pay dues, did not perform SS functions, did not serve in the SS, had no privileges or advantages of any kind because of their rank, and did not even wear the SS uniform. Their police service remained constant and unchanged.

Everywhere else in public life the same procedure was followed. It was not that the SS filled key and other essential positions but rather that the men holding such positions were taken over by Himmler into the SS as honorary leaders.

The affidavits deposed by Herr Fuhrer, SS No. 63, and by Herr Wunder, SS No. 42 give eloquent examples of the appointment of honorary leaders; SS No. 49 and Bethke, No. 48, show that the Kreis and Ortsbauernfuehrer were taken over as a group by the SS in that way, and the affidavits SS No. 97 and SS No. 98 describe the taking over of the leaders of the Reich Veterans' Society.

Therefore, it was not true that the SS infiltrated into the State; on the contrary, elements foreign to the SS were taken over by the organizations. The bulk of the membership remained what it was, a unit of farmers, mechanics, students, workers, and representatives of all the professions. The tasks of the General SS were not changed in any way because of this process.

After studying this matter, we can see how little basis in fact there is for the assertion made by some of the defence counsel on behalf of individual defendants and organizations to the effect that during the war the SS exercised all the powers of government in Germany. Many witnesses and affidavits prove that the activity of the General SS, which must be described as typical club life, began to decrease at the beginning of the war and disappeared altogether during the course of the war. The Waffen SS was fighting at the different fronts, receiving more and more draftees into its ranks. It was under the supreme command of the Wehrmacht. These two branches of the SS therefore could not rule Germany during the war. As I shall demonstrate later, the WVHA, which concerned itself with concentration camps, belonged to the SS only nominally, and had no administrative authority over any other institutions in Germany.

A reign of terror may well have been exercised through arrests and the putting of individuals in concentration camps, but that was not a matter of any branch of the SS organization, but rather of the Ministry of the Interior, of the police and the RSHA (Gestapo).

The setting up of Higher SS and Police Leaders does not alter anything on these facts either, for the name is in fact misleading. They had no authority over the police and the Waffen SS. Only in the most infrequent cases where they, like the Reichsfuehrer SS, simultaneously had State and police positions - for instance, Police Commissioners - were they authorized to give orders to the police, but only because of their State position, not because of their position as SS Leaders. This may be seen even more plainly in the occupied Eastern territories, for there was no General SS there.

The Higher SS and Police Leaders there did not have any authority of command in the Waffen SS, so that the Higher SS and Police Leaders exercised only the public police functions. I am referring to the testimony given by the witness von Eberstein, to Affidavits SS 86 and 87.

So we see the following: Himmler's power increased tremendously during the war, but the power of the SS was not increased. He did not receive this power because of his position as Reichsfuehrer SS and he could not exercise this power through the SS, but solely through State organs, that is, through the various police organizations.

Competing with Himmler's authority were other power factors, not of the State, but of the Party and exercised by the Party (Reichs, Gau, Kreisleitung, etc.).

All branches of the SS were outside this struggle for power between Himmler and Bormann.

From the description presented by me we can conclude the following:

Firstly, we cannot consider the organizations comprising the SS to be a unified instrument of a conspiracy.

Secondly, the Tribunal can only examine separately the question of criminal character for each branch of the organization.

The accusations raised under the Indictment which I shall have to deal with after these detailed statements - because of the lack of time I can cover only the most important aspects - become weightier the closer we approach the period of the war and finally the collapse.

A very serious and comprehensive pattern of accusations against the SS has been included in the term "Germanisation."

Here, your Honours, I deal with the next five pages, 46 to 50, and I pass over the "enslavement." The following four pages, 50 to 53, concern the forced displacement for slave labour. The next page and a half deal with the Einsatzgruppen, and the three pages 55 to 57 concern partisan warfare. Because of lack of time I cannot read them now. I ask you to consider them. Now I shall deal with the difficult problem of the concentration camps.

Concentration camps existed from the very beginning of the Hitler regime. Without them the Hitler State was inconceivable. Hundreds of thousands went through these camps, were degraded and ill-treated there; more than a hundred thousand died or were killed there.

It cannot be denied that the name of the SS is connected with these murders and misdeeds. In the face of all the world this confession must be made in this trial. And just as every German must be ashamed that such horrible inhuman things occurred in his country, even more should every SS man search himself and examine to what extent he is politically or morally guilty for these happenings. He should be concerned, not only with the defence against the accusation of the prosecution that every SS man has become a criminal through these crimes, but he should again look back upon his whole life and study when, where and how he might have deviated from the road of true humanity - perhaps only in heart and mind. This he can do, he must do - even if he denies his criminal guilt and says that he has four years in the front lines engaged in hardest fighting, believing in

Germany and her just cause. And if he feels shame, genuine shame - and even if only a little of it - then his reflections, then this trial, were not in vain. Then that purifying feeling of guilt is present, to which Pastor Niemoeller, a man who has been misunderstood so profoundly, has referred.

But even if that SS man should remain obstinate at heart, even if all those SS men should remain unrepentant - and from my visits to the camps I know that this is not the case - even then, we would have to continue to serve earthly justice, would have to examine whether, due to the concentration camps and other atrocities, the SS is to be considered a criminal organization, whether all SS men became by those acts criminals.

We, therefore, have to occupy ourselves with the details of those matters, even though millions of people bewail the victims of the concentration camps, hundreds of thousands of the surviving inmates suffer from the aftermath, and even though the world accuses the SS in one single outcry of revenge.

When, in the beginning of March, I was charged with the defence of the SS, I found a considerable amount of material of the prosecution, evidence taken in the main proceedings, and many documents which were assembled in the Document Book "Concentration Camps." But on the other hand, upon calm consideration - and that in spite of everything is essential - it is clear that if during the entire period before and during the war conditions in concentration camps were actually as represented, for instance, in the picture Concentration Camps, then it could not have been possible that hundreds and thousands were discharged, that work could have been carried on during the war as it was, and that finally those things could have remained unknown to the masses of people and to the mass of the detained SS men whom I now interrogated.

There were contradictions which could not be eliminated; in the American report on the development of the Buchenwald camp from 1937 to 1943 (Document EC-168), the basis of which I do not know, the following,

which is taken from a letter of the WVHA of 28th December, 1942, is attached as an appendix:

136,000 people were brought into all the concentration camps within a half-year. During the same time 70,000 died. Though it is obvious that not just half of those new inmates died, but that 70,000 of a total population of some hundred thousand inmates passed away in six months, yet that mortality rate is frighteningly high.

Thus the prosecution seemed to be right by affirming that the detainees were systematically exterminated or at least killed through overwork.

But this was not in accordance with the order issued in a circular of 28th December, 1942, by the WVHA, according to which the doctors of the camps were to take all measures to ensure lower death rates and to maintain working capacity as high as possible, by the control of food and working conditions and by suggesting practical ameliorations which should not remain merely theoretical. Neither was this in accordance with the fact testified to by witnesses over and over again, that foreign and German commissions inspecting the camps and even SS Fuehrers themselves gained a very good impression of the administration and the prisoners.

I have been and am still of the opinion that for me as lawyer and defence counsel the fact could not be sufficient that the tremendous number of victims was not to be disputed and that the whole world said that they had been murdered and ill-treated by the SS system. In this decisive question which is produced by the mass effect of a mutually conditioned formation of opinions, in other words, a typical case of mass suggestion of public opinion, there can be no "legally notorious facts," there can be only clear facts which must be established without prejudice and bias. This is important for the following questions: Who were the authors of each of these crimes which became the enormous number of anonymous concentration camp atrocities? Did they do it on their personal initiative or on order? Do they belong to a typical criminal group, and if so, to which

one, in order to discover a collective guilt? In what relationship are they to the organization of the SS, that is, to the tens and hundreds of thousands of members who had not been active in the concentration camps and who insist that they knew nothing of these crimes?

THE PRESIDENT: The Tribunal will recess.

(A short recess was taken.)

THE PRESIDENT: Dr. Pelckmann, you have now been speaking for two hours and twenty-eight minutes, so that, strictly speaking, you have got twenty-two minutes more.

DR. PELCKMANN: I had just put the questions which seemed important me for the clarification of the connection between the SS and the crimes committed in concentration camps. I hoped that these questions, the elucidation of which might contribute to the quicker sentencing of all the criminals, would have been answered by the Allied Courts which had been sitting in concentration camp trials since last year.

That is the reason why, your Honours, I made an application to place at my disposal the records of all these trials for consideration. From them I might have discovered many facts which have come to my and the public's knowledge only during these last weeks.

I have nevertheless left nothing undone to discover the truth. My application, aiming at placing at my disposal the concentration camps' administrative files of the WVHA, was handed in at a rather late date and I did not follow it up. I did not need to follow it up because I succeeded at last at the beginning of July in finding a witness whose testimony is, I believe, decisive in many respects for the discovery of the truth, that is for the historical and, in this trial, relevant truth. This witness is Dr. Morgen.

We are indebted to this witness for the discovery of three primary facts. First, the last and profoundest reason for the killings in the concentration camps was the outlawry of the detainees, the omnipotence of the police (Gestapo) and the weakness of justice.

Secondly, the ordering of and execution of mass exterminations of Jews in special so-called extermination camps were ordered by Hitler directly. Knowledge and execution of these orders were confined to a few initiated.

Thirdly, an absolute sphere of secrecy together with a diabolic means of deception was destined to keep knowledge of the happenings in the concentration and extermination camps from the public and the prosecuting authorities.

I shall never forget my first meeting with this witness, Dr. Morgen. The entire being and soul of this gigantic man, leaning over in his chair, seemed eager to communicate what he had known for about two years, what he had viewed and experienced for months while living with detainees and personnel in these places of horror.

I leave out the next few sentences.

With flagging hope Dr. Morgen made his report for the third time, with which, as before, he wanted to help find the guilty, protect the innocent, and to show the German people and the world the final guilt of the criminal leadership for the most horrible murders in world history. In this he succeeded.

I leave out the next paragraph in which I describe the beginning of the concentration camp system and the participation of the SS.

But soon the establishment and guarding of concentration camps were legalized. From 1933, 1934, on, they were financed from the budget of the individual German States leader. As head of the Political Police of all Lander, except Prussia, Himmler, in 1934, uniformly regulated the guard and administrative conditions. By taking over a part of the previous guard personnel, SA and SS men, he created the Death's Head formations and supplemented them with volunteers from all sections of the population without consideration of membership in the Party and the SS. They were then intended exclusively for guarding concentration camps and comprised, in the year 1936, 400 men from the Kommandantur and 3,600 men for

guard duties. They guarded about 10,000 to 12,000 prisoners in five concentration camps all over Germany. I ask you to compare the then unusually large membership of the General SS with these figures.

In 1936 the concentration camps and their guard personnel were taken over into the Reich budget and separated according to Kommandantur and guard personnel. At the beginning of the war the Kommandantur personnel consisted of 600 men; the guard personnel amounted to about 7,400 men. There were only six concentration camps in all Germany, containing 21,300 prisoners, and as yet no work or subsidiary camps existed. At that time there were about 240,000 members of the General SS. The Waffen SS did not yet exist at that time.

In my explanation of the question of the organizations which I submit as an appendix, I have proven that the "Totenkopf Units" (Death's Head Units) created in 1934 as special troops of the State, were not paid by the Party but by the Reich, and that they had in common with the General SS only a part of their name, "SS," and the chief, Himmler. (This follows in particular from Hitler's Secret Edict of 17th August, 1938, and from Document SS 84.)

Of importance seems to me the following change after the beginning of the war, when the wave of destruction begins to mount slowly in the concentration camps.

Six thousand five hundred men of guard personnel were sent to the front with a newly formed division. Thus they were eliminated entirely from the concentration camp system. During the course of the entire war there were employed about 30,000 men in the concentration camp system, as can be seen from the testimony of Brill and from Affidavit No. 68 (Kaindl). These included new arrivals and departures. They comprised about 1,500 men of the original cadre of the Totenkopf Units and 4,500 men originally from the General SS.

These 4,500 men were a part of 36,000 members of the General SS who had been called up until 1940 upon the emergency service decree, and who had become members of the Waffen SS. The remaining 24,000 men of the concentration camp personnel - that is, eighty per cent - originally had no nominal connection with the SS. These were 7,000 persons of German descent or extraction who had been called up, 10,000 German nationals who had volunteered to go to the front in the Waffen SS and 7,000 soldiers subordinate either to the Army or the Air Force. Many of the volunteers came from the SA, the Reichskriegerbund, the Party and other organizations. All, with the exception of the original personnel of 1,500 men, had been assigned the task of guarding the concentration camps against their will upon the order of Himmler, and without their having any connection with the Kommando Amt of the Waffen SS. Only in the course of the war were these guarding and administrative units of Himmler's nominally taken over into the Waffen-SS, Himmler thus transgressing his powers. This was done in order to prevent the personnel of the concentration camps continually having to be freed from military service, that is to say, for reasons which were practically to eliminate the regulations of military supervision. After the unequivocal evidence given by the witnesses Reinecke, Juettner, Ruoff, Brill and many others, there can be no more doubt that the State police tasks of the concentration camp system did not change for all that, and that in particular the concentration camp system did not become a concern of the Waffen SS. Indeed, the entire concentration camp system, even after the formal transfer of the guard personnel into the Waffen SS, was not directed and administered by the leading agencies of these organizations, but by a special office, the well-known Amtsgruppe D in the chief office of the Economic Administration, WVHA (witness Stein, Affidavits Fanslau SS 41, 100, Frank No. 99).

I beg you to take official notice of the following three pages, which deal in detail with the limited activity of the Amtsgruppe D.

Also, the actual statements made by Morgen about the extermination camps and particularly the extermination camps of Wirth and Hoess. I continue on Page 66.

All these extermination installations can be traced back to special orders of Hitler, of the Chancellery of the Fuehrer, and were outside the framework of the normal concentration camp system. For that reason, they did not have the normal chain of command and organizational form. Wirth was Criminal Commissar without being an SS member. Hoess received extermination orders, apart from Himmler, only from Eichmann personally, without being allowed to inform his immediate superior, Gluecke, the inspector of concentration camps, of them. So Hoess testified on 15th April.



Heinrich Himmler visiting Mauthausen concentration camp in 1941 along with Ernst Kaltenbrunner (far left).

Now what follows from all these terrible events - from concentration camp atrocities through the Einsatzgruppen to mass gassings - as to the charge against the SS?

The prosecution says that all the crimes charged have been committed to such a great extent and in such vast proportions that they and the criminal aims and methods must have been known to every member.

The prosecution thus says that knowledge of the criminal nature of these tasks is a preliminary condition for the judgment, and the decision of the Court of 13th March, 1946, is in agreement.

The assertion of the prosecution is based upon the following arguments:

Before, and particularly during the war, the Press and the wireless, statements of official personalities and all manner of publications in the Allied countries widely informed the public of these States about the atrocities committed in the concentration camps and other crimes. Under these circumstances, it would seem obvious to conclude that if in these countries such crimes were almost universally known, this must have been even more the case in Germany and particularly in the SS. The collective affidavits which have been submitted and which are in some cases extensively proven show that the majority of SS members deny any such knowledge. But in addition the defence has countered the charge with a comprehensive statement: The crimes committed within the limits of the German sphere of power were carried out under a minutely planned system of secrecy so that the mass of SS members not only did not know anything about them, but, indeed could not possibly have known about them. Whereas the charge of the prosecution can only be made credible by the legally very doubtful use of deductions, the argument of the defence is proven by the facts, and facts which, gentlemen of the Tribunal, have, in my opinion, been furnished by the defence.

Let us start with the concentration camps. I describe on the next few pages, which I ask the Tribunal to read, the matter of secrecy and all the

regulations and circumstances which made it impossible for any of this information to get out of the camps.

I continue on Page 68.

The greatest secrecy prevailed in these camps. Not only the official execution of death sentences of courts, but also the execution instructions of the RSHA, which began only at the beginning of the war, and certainly the murders resulting from the lust for power of the Kommandants, were not undertaken publicly. Dr. Morgen describes this in detail in his affidavit, No. SS 66. In his examination he described all the clever methods to disguise murders as natural deaths and thus to deceive the civil courts and, from 1940 on, the SS courts.

I continue on Page 69, about the middle of the page.

Since the use in 1934 of the Death's Head Units as camp personnel, the General SS and later the Waffen SS no longer had anything to do with concentration camp affairs and certainly not with the Kommandantur personnel in personnel or legal questions. The Amts Group D of the WVHA, with their small group of thirty thousand men of the above-mentioned nominal Waffen SS, had become an independent and separate unit with their own telephone and teletype system and their own couriers to the concentration camps. Only the Gestapo had a channel into the concentration camp, into the so-called political department, which was subordinate to it and usually run by a criminal investigation secretary. Here also there was no connection with the rest of the SS.

As regards secrecy, an important factor was, as Kaindl explains in Affidavit SS 68, that the staffs of the Kommandanturen were made up of the same personnel, until the middle of 1942, as had existed at the beginning of the war. Thus, too, knowledge of the conditions and events could not be spread before 1942. From a psychological point of view one must consider that these persons responsible for orders issued or received had not the slightest reason to talk about their sinister acts.

Because of the lack of time I have to pass over the next few pages, and ask the Tribunal to read them. They deal in detail with the counter-propaganda which had intentionally been started by Germans and present comprehensive proof in the way of affidavits and statements before the Commission. The same applies to the mass extermination camps, Auschwitz, Monowitz, Treblinka, and so on.

I continue on Page 73, on the bottom of the page.

No proof has been furnished that the mass of the SS knew anything of the activity of the Einsatz Commandos.

To refute the question of whether knowledge existed of the biological experiments in the concentration camps I shall point only to what I consider a most peculiar fact - that extensive testimony was taken on the question whether the witness Goering had known of them. I could state that those experiments were carried on only in a few camps, that, as proven by various affidavits, they were carried out only after the prisoners had voluntarily agreed to them; but I am not going to do so because I am not willing to defend them at all, and I do not wish to create such an impression. It is enough to refer to the argument about the knowledge or ignorance of Goering in this matter, and to the question as to what evidence has been taken in favour of the unknown SS man. I do not doubt at all that the witness Sievers, Manager of Ahnenerbe is chargeable with guilt, because of his knowledge and carrying out of these criminal experiments; but not so his co-workers, since those experiments constituted about one per cent of its total research programme.

I finally would like to quote in regard to the knowledge of those crimes an article which I found in the Berliner Blatter, issue No. 1, of 1946. In an article by Oskar Goetz, entitled "The Jew in the Third Reich," I quote: "We, for instance, in camp Theresienstadt, considered the happenings in Auschwitz, the other crimes in the death camps of Mauthausen, Maidanek, Ravensbrueck, and Buchenwald only as rumours, yes, as only

immeasurably exaggerated rumours. The things that actually happened in Auschwitz, for example, did not authentically come to our attention in Theresienstadt before the spring of 1945, when a few survivors returned from Auschwitz after the camp was dissolved. In the interest of a just evaluation of his contemporaries one must be factual, and should desire to be so. No guilty one should go free, but no innocent one should be burdened with guilt.”

I continue the last paragraph on Page 74:

“If now one reached the conclusion that apart from a certain definable or more or less definable group of culprits - witness Dr. Morgen mentioned, certain circles of culprits within the concentration camp system - the great mass of the SS had no knowledge of the crimes, but like the rest of the Germans knew of the deportations, that could be considered criminal under Article 60 of the Charter only if it were in connection with a war of aggression. I have already mentioned that the bulk of the SS were not aware that they waged a war of aggression.”

Your Honours, President Roosevelt declared in his speech of 25th October, 1941, on the occasion of the shooting of hostages by German forces of occupation: “Civilized nations for a long time upheld the principle that none should be punished for the deeds of another person.” Justice Jackson has declared on 28th February, 1946, that: “The aim of declaring the organizations criminal is to punish assistance in these crimes, though the real authors could never be found, nor identified.”

Can they really not be found? Is the contrary not proved by the great number of trials, which I just mentioned before, for concentration camp crimes before Allied military courts, which pronounced 153 death sentences, out of 241 defendants? Does the prosecution still maintain that it has not yet found the real authors, though for more than a year all persons who had anything to do with the concentration camps have been under arrest, and though all detainees are today grouped in organizations and are

at any time at the disposal of the Tribunal as witnesses? All files and documents, too, are in the hands of the Allies.

Despite that, and despite the discrepancy of these two quotations by Roosevelt and Jackson, I shall assume for a moment the point of view of the prosecution that such a collective criminality exists.

Then within its framework the principle still stands that none shall be held responsible for a crime which he did not commit. It means that in this case, too, the number of accused should be held as low as possible.

This limitation can be made in two ways, either separately or combined according to:

1. The degree of responsibility, that is, the position or the rank held in office;
2. The subdivisions of the whole organization known as SS.

The prosecution has to my knowledge already made this first limitation in its charge against the Party and the Government. From the Party, the Political Leaders only, and from the executives of the German State, the Reich Cabinet members only are to be put on trial.

As for the limitation of responsibility, a line must be drawn between moral and legal responsibility. The question must be asked, what each individual in his respective office should have done if he committed a crime upon order or only if he came to know about it, and what could reasonably be expected from him.

As for the limitation according to the subdivisions of the whole organization, it can be justified by the fact, which I have thoroughly explained, that these groups had very definite and separated spheres of activity and differed very much as to their knowledge of activities, and perhaps crimes. (Since I had to omit these passages, I ask again that the Tribunal read them.)

A sub-division as to beginning and end of membership, too, would be conceivable and would permit a collective exception of the mobilized

members.

But even for a sentence limited in such a way, it seems to me absolutely necessary, in view of the heavy consequences brought about by Law No. 10, to insert in the formula of the verdict or to add to the reasons given for the verdict that each individual member would have the possibility of appeal, except against provisions of Law No. 10.

At last I want to draw attention to a procedural obstacle to the verdict which has been demanded: The meaning of the additional sentencing of a member of an organization as an accused individual belonging to this organization seems to me the following, according to Article 9: An organization shall be held responsible for the acts of an individual defendant who is its member only if between the acts of this individual defendant and his organization a connection exists so that for legal reasons joint liability of the organization is considered necessary. Such a connection exists only if the individual defendant committed the deed as a member of the organization, whether it be that by doing so he fulfilled the aim of the organization, or that he used the organization for its commitment. On 28th February, 1946, Justice Jackson stated: "Individual defendants, at least one of them, must have been members of the organization, and must have been sentenced for a deed by which the criminality of the organization has been ascertained."

In the case of the organization of the SS, which I represent, this means:

An SS organization can be declared criminal only if at least one of the defendants belonged to it, and was sentenced for a crime which he has carried out either through the organization, or which is to be considered a result of the aims of the organization, and has been committed in their realization.

With one exception, about which I am going to speak, all the defendants stand before this High Tribunal for acts which they have performed as the

chiefs of important State or Party offices, but not of the SS, and which they carried out there in the fulfillment of their tasks.

The fact that a few of the defendants were holding honorary ranks in either one of the SS organizations is not enough to consider the SS organizations co-responsible for deeds for the carrying out of which they were not responsible and in which they did not share.

The defendant, Kaltenbrunner, might be an exception. He is indicted in his capacity as chief of the Security Police, that is, the Criminal Police and Gestapo, and the SS, also for those deeds which were carried out by the SD. But the SS organization cannot be incriminated by that. The Criminal Police is not indicted. The Gestapo is indicted as such. The indictment of the SD also must be considered as an independent one. It is true that it was connected originally with that against the SS, but soon the SD got its own defence counsel and throughout the whole proceedings it was treated independently. Since 1934 SD and SS were separated. A sentencing of Kaltenbrunner, therefore, would, if at all, give only formal basis for the sentencing of the organizations of the Gestapo and the SD, but not all of the SS.

As far as the method of the proceedings is concerned, I might point out that none of the defendants concerned was ever asked whether and to what extent he committed his deeds for the SS or as a member of the SS. This appears to me as a shortcoming.

I come to the end, gentlemen of the High Tribunal. I said in the beginning that this trial was a most gigantic criminal trial - but still a criminal trial. And therefore I venture to ask now, what purpose from the standpoint of legal policy could and would a sentencing serve? And I receive the traditional answer - retaliation and intimidation.

Certainly it is necessary to put a threat before the German people, and especially before the former Nazi formations, but also before the peoples of all the world which might ever be tempted to bow to dictators, or accept

anti-democratic methods, and to make them face the severe consequences of the violations of International Law, the new universal law now incorporated within the Charter. This trial should be the last warning to those who do not heed these demands of the world, and of all their peace-loving citizens, for freedom of speech and religion, for freedom from want and freedom from fear. The war, the terrible consequences of the defeat, the detention of hundreds of thousands of prisoners of war, the painful months of the proceedings here, the political investigations and occupational limitations - all these are such impressive and threatening effects that they should produce the consequences which we hope for.

But, gentlemen of the High Tribunal, one thing above all: Your armies have freed Germany from the tyranny of Nazism; now will you free the world from the curse of retaliation. The world can recover only when once there shall be once and for all an end to the hateful slogans directed against races, nations, classes, or parties.

I say this, though I know that there will be many SS men, just as there will be many on the side of the Allies, who will not understand the meaning of my words.

But they, too, sometime will come to recognize the eternal truth of the words: "I am here to love and not to hate."

And thus I would like to summarize my defence of the SS.

I accuse every one of the murderers and criminals who belonged to that organization, or one of its units - and there are more than a few of them.

I acquit the thousands and hundreds of thousands of those who served in good faith, and who therefore share only the moral and metaphysical, not the criminal, guilt the German people must bitterly bear.

But I warn - I warn the world and its judges against the commitment of mass injustice in legal form, against the creation of a mass of condemned and degraded wretches in the heart of Europe, I warn so that the longing of all peoples and men might be fulfilled.

May God bless your judgment!

THE PRESIDENT: Now, I think, the SD will come next.

DR. GAWLIK: I will adhere strictly to the ruling of the Court and only read parts of my statement.

May it please the Tribunal, I do not regard it as my task as defence counsel for the SD to palliate injustice or to avoid punishment for the people who are responsible.

In the proceedings against the SD, we are not concerned with the question whether individual persons must be punished for crimes committed. It is much more important to determine whether, according to the outcome of the evidence submitted, three thousand officially active persons and thirty thousand purely honorary office-holders, who were collected under the designation SD in offices III and VI, can be declared criminal.

I have to deal with this question alone. I have to prove whether the charge made against the SD by the prosecution is justified on the basis of the Charter, and so far as this is admissible according to the Charter, justified on the, basis of International Law, of national laws, and of legal principles developed by jurisprudence.

I shall first of all take a stand on the legal problem, in order to discuss in the second part of my presentation the factual circumstances under consideration of the result of the evidence.

The first part divides itself into two sections:

In the first section I shall discuss the questions arising from the law itself; in the second, the questions of procedure.

In the material legal part I shall first investigate the question of the organizations and groups in relation to the SD. Then I shall investigate (a) what prerequisites must be complied with in order that an organization or group can be declared as criminal, (b) what conclusions can be drawn from

these confirmations. Finally I shall investigate whether the basis nulla poena sine lege is opposed to a sentencing of the SD.

I start with the explanation of the term “SD,” the Security Service. This term has no unequivocal meaning. The SD was first considered to be:

(a) the SS Formation SD

(b) Offices III, VI and VII.

These were, as is shown from the interrogations of the witness Hoepfner, two completely different unions of persons.

(a) To the SS Formation SD belonged all persons who were members of or candidates for the SS, and who were employed with the Security Police or with other organizations of a police character (e.g., customs frontier protection) or with the SD Intelligence Service. This SS Formation SD had no task and no aims. It exercised no activity for a common general purpose. Its members never met for a common service or at other general gatherings. They lacked any feeling of solidarity, as they served independently of each other in different organizations. I refer particularly to the testimony of the witness Hoepfner before the Commission and before the Tribunal.

It was purely a matter of a registered compilation of SS members and SS candidates of certain professional groups.

The members of this SS Special Formation SD wore the SS uniform with the badge “SD” on the left sleeve. The different branches were thus not outwardly distinguishable.

(b) Regarding offices.

1. Offices III, VI and VII were the Home Intelligence Service, the Foreign Intelligence Service and the Scientific Research Service. They were the SD offices in the Reich Security Main Office (RSHA) which was founded in 1939, in contrast to the Security Police (Sipo) Offices IV and V. Office VI was united on 12th November, 1944, to the Military Counter-Intelligence to become the united German Intelligence Service. I refer here to Document SD No. 1 and Schellenberg’s affidavit, SD No. 62.



Members of the Sicherheitsdienst rush out to an arrest in occupied Poland, 1939.

There was, moreover, the Reich Security Service, but that was something else. The Reich Security Service provided the guard for leading personalities of the State. This organization did not belong to the Reich Security Main Office and it was also not part of the SS. The Reich Security Service was under the then Brigade Leader Rattenhuber, whose immediate superior was Himmler.

2. Offices III and VI of the Reich Security Main Office, the Home Intelligence Service and the Foreign Intelligence Service, are the ones indicted.

Office VII, although designated as SD together with Offices III and VI, is not indicted. I refer particularly to the minutes of the Commission of 23rd July, 1946.

When speaking in my further statements of the SD, I only mean by this the indicted Offices III and VI.

Offices III and VI of the RSHA were not organized until September, 1939.

In a formal sense, therefore, the prosecution can only refer to the period which has elapsed since that date. In contradiction to this, however, accusations have also been made against the SS relating to a time before that. Therefore, against the formal text of the Indictment, I shall also make the time before that the subject of my speech.

3. Offices III and VI were not indicted separately, but as a part of the SS.

The prosecution, therefore, considers the SS as an organization or group within the meaning of Article 6 of the Charter and the SD merely as a part thereof.

Is this right?

To decide this question, a definition of the terms organization and group within the meaning of the Charter is required.

The American and the British Prosecutors in their fundamental speech of 28th February, 1946, considered the following prerequisites as necessary for an organization:

1. an alliance of persons with an identifiable relationship.
2. a common, general purpose.
3. the voluntary character of the alliance.

On this definition, which is also in accord with German jurisprudence (Juristische Rundschau 1928, page 688), I shall base my further arguments.

The decision, therefore, hinges upon the questions as to whether there existed between SS and SD:

- (a) an identifiable relationship,
- (b) a common, general purpose.

For the period up to the end of 1933 and beginning of 1934 this must be answered in the affirmative. I refer in particular to the statement of the witness Hoepfner.

For this period, therefore, the arguments of the defence counsel for the SS are applicable to the SD, and I shall in consequence make no fundamental statements for this period.

For the later period the question as to whether an identifiable relationship existed between the SS and SD must, however, be answered in the negative.

The Reich Security Main Office was not one of the offices of the SS Supreme Command, as has been asserted by the prosecution. It is also not true that the RSHA was a department of the SS. In so far the prosecution contradicts itself, since the Secret State Police, which was Office IV of the Reich Security Main Office, is not indicted as part of the SS, but separately.

Page IX, that the SD was an espionage division of the SS, If the assertion is made in the Trial Brief against the SS, this is obviously, in as far as a division of the SS is meant, a confusion with the SS Special Formation SD.

There was no supreme common command over both the SS and SD after 1934.

The connection between the SS and the SD required for the conception of organization was not established through Himmler's person; for in that case this obvious connection must have existed with the police and would have existed even with the Reserve Army since 1944.

It is true that Himmler strove for the amalgamation of the SS, SD and the police through the creation of a State Defence Corps. This, however, was a plan for the future which had as yet not materialized.

Neither was this required union created by the Higher SS and Police Leaders as they had, as a matter of principle, no essential nor disciplinary authority over the members of the Offices III and VI.

The recognizable association necessary for the conception of an organization could not have existed since 1934 if only for the reason that only 10 per cent of the chief and honorary members of the Organization SD were members of the SS; ninety per cent were not members of the SS and did not wear the uniform of the SS Special Formation SD with the insignia SD. During the war about fifty per cent of the SD were women.

Apart from the required recognizable connection between the SS and the SD there was also missing since 1934 a collective general purpose. For this I refer to the testimony of the witness Hoepfner.

The SD, therefore, was part of the SS only until the year 1934 as an organization according to Article 9 of the Statute. After this period the SS and SD were no longer united in one organization according to the Statute.

Did the SS and the SD form a group during the period after 1934 according to Article 9 of the Statute?

It may be doubtful whether the legislator really wanted to make an important distinction from a legal point of view between "group" and "organization." The wording of Article 9 of the Charter could speak against a distinction. It says there that groups or organizations can be declared

criminal organizations. The group also, therefore, is to be declared a criminal organization. If, however, a distinction is assumed, I wish to state in this connection the following:

The prosecution has stated that the concept of the group is to be taken from common usage. When explaining this concept common sense should be used. According to common usage the group is a numerically small community of persons. For fifteen to twenty persons we speak of a group, not, however, for larger unions.

We speak of the fact that groups were formed within a party or within an association. The group is part of the organization according to common usage. The group, therefore, is subordinate to the organization.

In this connection I should like to point out a resolution of the German Supreme Court of the Reich of 8th May, 1922. This resolution states that within a bigger association of persons following some general aims, a group may form itself to pursue a definite individual aim.

This may occur particularly if the larger association pursues approved aims with approved means; part of the members, however - perhaps without the others being informed of it - united themselves for activities which attempt to further the general aims in a prohibitive way.

Article 9 of the Charter, therefore, might be explained as follows: We can declare as criminal:

1. an organization or
2. a group as part of an organization.

The SD could only then have been a group during the period since 1934 if it had been part of the SS. This, however, as has already been stated, is not the case.

Result: Since 1934 the SD was not part of the SS as an organization or group according to Article 9 of the Charter.

I come to a further question:

Were the Offices III and VI a centralized organization or group, or were they two separate organizations in the sense of the Charter?

The Offices III and VI had neither an identifiable relationship nor a collective general purpose. This held good for the time after 1939 when the Offices III and VI belonged to the Reich Security Main Office (RSHA), as well as for the period prior to 1939, when they were united in the SD Main Office. Office III was the Home Intelligence Service, Office VI the Foreign Intelligence Service.

On the basis of the presentation of evidence it can be considered as proved that the aims, tasks, activities and methods of Offices III and VI were always completely different. The fusion of Offices III and VI in the Reich Security Main Office does not suffice to prove a recognizable connection between the two agencies, or that they have a common task. Office IV and the Criminal Police, Office V, also belonged to the Reich Security Main Office. The Gestapo is rightly considered by the prosecution as an independent organization and has been charged as such. The prosecution has evidently the same opinion regarding the Criminal Police, against which no charge was made. Just as little as the Gestapo and the Criminal Police, through union in the RSHA, have lost their character as independent organizations, so little could the fusion of Offices III and VI create a recognizable connection and common task for these two offices. The Reich Security Main Office was only the designation of an administrative agency. I refer here to a statement made by the witness Best.

The SD, therefore, was no uniform organization within the meaning of the Charter, but Offices III and VI could really only have been two separate organizations if one were further to suppose voluntary membership.

According to the prosecution it should not be necessary for each member to be a voluntary one. The prosecution considers it unimportant if a small part or small percentage did not join it voluntarily.

Let me point out in this respect that this juridical standpoint does not tally with German jurisdiction. In 1928, the German National Court decided that a society, which corresponds to the Charter's concept of an organization, must require the voluntary, contractual union of all members.

I leave the question undecided as to whether an organization can be considered as existent when a small percentage of the members did not belong to the society on the basis of a voluntary contractual union, because such is not the case with the SD.

The examination of evidence has revealed that during the war the membership of a considerable portion of the SD was not voluntary but was based on a legal ordinance, either on compulsory service or emergency service. I refer to the deposition of the witness Hoepfner, who revealed that during the war an estimated fifty to sixty per cent of the members belonged to the SD by virtue of a legal ordinance.

These statements are supported by the affidavits which disclose on an average the same percentages for various offices. I, moreover, refer to the collective list of affidavits submitted by me on the subject.

The legal prescription on which compulsory service and emergency service were based since 1939 are to be found in Documents SD 65-69, submitted by me. I especially refer in this respect to Document SD 65, reproducing the circular of 16th October, 1940, in the text of that of 1st July, 1942. It is expressly stipulated in this circular that as emergency headquarters the SD commands can demand that replacements and reinforcements be put in readiness for them.

Likewise, withdrawal was not possible during the war for those who joined the SD voluntarily. In this connection I refer to Affidavit SD 22.

The prosecution, therefore, is not accurate in saying that membership of the SD was voluntary.

Consequently, on the basis of the juridical standpoint brought forward by the prosecution, Offices III and VI cannot, for the time of war, be

considered as organizations as conceived by the Charter.

Neither were they groups in the sense of the Charter, because for the group, as part of the organization, the characteristics of an organization, including voluntary membership, are necessary.

As a result, the following can therefore be concluded:

1. Until 1934 or thereabouts, the SD was part of the SS.
2. In the period from 1934 to 1939 the Home Intelligence and the Foreign Intelligence were separate organizations.
3. During the time after 1939, they were not organizations or groups in the sense of the Charter because the membership of a large part of the members was based on legal ordinance.

I now come to the question of what characteristics an organization must have to be called criminal.

1. The prosecution has submitted that the organization
 - (a) must pursue a purpose which, according to the definition of Article 6 of the Charter, is punishable, or
 - (b) pursue legitimate purposes through means which, according to Article 6, are punishable.

A further requirement, according to the prosecution, is that the guilt of the members must be established. This means the members must have known that the organizations pursued goals termed punishable according to Article 6, or legitimate goals by punishable means.

However, in the submission of the prosecution, an organization can also be declared criminal when not all of its members knew about the punishable purposes.

This opinion cannot be agreed to.

Professor Dr. Exner established in detail and convincingly, in his final pleadings for the defendant Jodl, that the action per se is not a crime but that guilt must be there also. Without guilt no punishment. Going further, Professor Dr. Exner has established that this principle can also be found in

decisions of foreign countries. I refer to the statement made by Dr. Exner, and I wish to point to the American law of 28th June, 1940, previously mentioned, which the prosecution cited as an illustration of the fact that organizations can be declared criminal. This law demands explicitly the knowledge of illegitimate goals.

Also, in English law, it is a general practice that a person cannot be convicted unless it can be proven that guilty intent was involved.

The argument of the prosecution that knowledge on the part of some of the members is sufficient for sentencing the organization could be upheld if Law No. 10 were drawn up differently, in other words, if by reason of Law No. 10 an investigation were provided to determine whether the individual member had knowledge of the incriminating goals and activities of the organization.

This is not the case, however. Law No. 10 provides conviction of each member only because of the fact that he belonged to an organization which has been declared criminal. The members can no longer argue in subsequent proceedings that they did not know of the criminal goals and purposes. The opinion held by the prosecution would thus mean that in subsequent proceedings persons will be convicted who had no knowledge of the criminal goals or activities. This would be contrary to the fundamental principle known to penal law in the entire world - previously referred to by me - according to which the proof of objective facts is insufficient for conviction and that the presence of guilt must also be proven. In view of this, and since guilt can no longer be established in subsequent proceedings, it is imperative that the guilt of all members be established in this trial before the International Military Tribunal. Only to the extent that this guilt has been established could the organization, or individual groups as a part of the organization, be declared criminal.

Guilt also includes knowledge of illegality. Also in this respect I should like to refer to Professor Dr. Exner's argument whereby he established

convincingly that every serious crime - and only serious crimes are being tried here - does not necessarily presuppose the knowledge that something punishable is being done but that it is wrong to act in that manner. The perpetrator must be cognizant of the fact that he commits an infraction of law, or that he is acting in a manner considered naturally wrong. Professor Dr. Exner also has established that these principles prevail not only in the German penal law; he also cited a number of examples from English law.

In other words, the members not only are required to know the goals or methods of the organizations, in accordance with Article 6, but the members must also be aware that these goals or these methods are illegal or in any case contrary to law. In that connection the question then arises whether all members must have this cognizance or whether it suffices that only some of them have it. Because - for reasons which I already explained - only he is liable to punishment who was conscious of the illegality and because this consciousness can no more be examined in subsequent proceedings, it must be established in the present proceedings for all members, for otherwise those members might be punished by virtue of Law No. 10 who did not have this consciousness. To renounce the factual criterion of the cognizance of illegality would mean that the demands made on the ordinary members are unduly high. The cognizance of illegality may be absent even in the case where a perpetrator executes an order given him.

The provision of Article 8 of the Charter merely eliminates the order as a general reason for exclusion from punishment; but it is possible for an order to exclude the cognizance of illegality in individual cases. He who has recognized the illegality of his action cannot, according to Article 8, justify himself through reference to an order.

In a case, however, where a person considers his action right and legal by virtue of an order given him, he must be exonerated. The provisions of Article 8 of the Charter can have only this sense and this meaning.

The question whether appeal by virtue of an order received from superiors furnishes ground for exoneration is not left uncontested in international writings. Article 8 of the Charter ruled on this controversial question that the perpetrator cannot make appeal because of an order obeyed. This explains why I need not discuss this controversial question in greater detail. All authors, however, who deal with this question presuppose that the subordinate knew that the order was illegal and unjust.

They deal mainly with the question as to whether the subordinate, by knowing the illegality and unlawfulness of the order, had grounds for exemption from punishment.

It is to be concluded herefrom that with this lack of knowledge, which can also be founded on an order, the perpetrator is exempt from punishment.

The French Prosecutor also stated that the order of a superior does not protect the perpetrator of a deed which was obviously punishable.

It would lead to an illogical result, if one considered it inadmissible to cite an order as proof of the lack of illegality.

He who carried out an act without an order, would not be punished if he lacked the knowledge of its illegality. If he, however, commits the same deed on the strength of an order, he would have to be punished, if one does not agree with my point of view. Such a misinterpretation would contradict the meaning and purposes of the Charter.

Orders can, however, put the perpetrator into a state of compulsion, and for this reason exclude the guilt.

It is a general rule of English law that he is protected from punishment who has committed crimes under the authoritative influence of other people and not as a result of an unchecked and deliberate intention.

According to English law this protection also exists in the relationship between the State or the supreme power and the subjects of the State, and

excuses obedience to the existing authority if bodily force is exercised or is imminent.

Thus I arrive at the following result:

An organization could only be declared criminal, if:

1. its purposes or expedients correspond with the facts of the case as stated in Article 6 of the Charter.
2. all members knew these purposes and expedients and
3. all members were conscious of the fact that these purposes were illegal or unjust.

This result gives rise to two further questions:

1. A legal one, whether the condemnation of an organization can be brought into harmony with the general rules of International Law and national law;
2. a factual one, whether the necessary elements of such condemnation can be established at all for all members of the SD and whether a trial of this kind can be held at all.

Before I begin to discuss the legal question I take the liberty of drawing the attention of the Tribunal to the fact that the stipulation in Article 9 was not a compulsory rule, but only an optional one. Even if the conditions are present for declaring an organization as criminal, the Court can refrain from doing this. It may be assumed that the legislators pursued a purpose in having prescribed the condemnation of the organizations as not compulsory even if all the conditions for this were fulfilled. It may be presumed that the legislators who promulgated the Charter wanted to submit Article 9 to examination under the rules of International Law.

By this the authors of the Charter apparently wished to transfer the judge's right of examination to the International Military Tribunal with regard to Article 9 - and I expressly emphasize, in order to avoid any misunderstandings - only with regard to Article 9, because in other respects the Charter is a mandatory rule. The International Military Tribunal should

examine Article 9 to determine whether this rule is a further development of the legal concepts of International Law and national laws, or whether it is in contradiction to these. The fact that Article 9 is a rule previously unknown in law should especially favour such an intention. The question as to whether a formal law is in contradiction to other laws, cannot be immediately investigated when the law is issued. This can only be determined in the course of the practical application of the law and after research by scholars.

English constitutional law with its special concept of the constitution does not recognize the judge's right of examination. The Union of the Soviet Socialist Republics does not recognize the judge's right of examination either. In France the judges right of examination is rejected by the courts but is almost unanimously accepted by legal scholars. In the United States the judge's right of examination is generally recognized.

The courts of the United States have to compare the laws which have been issued with the constitution, and to discover the true intentions of both.

I believe that the international community of nations approaches the federal system of the United States, and that therefore the International Military Tribunal is justified in examining the relationship of Article 9 of the Statute to the generally recognized rules of International Law and also the laws of individual nations which, according to the statements of Justice Jackson, are likewise to form the legal foundation for the decision.

Concerning Article 9 of the Charter, it must be added that it is a precept unknown to the previous laws. It can obviously be presumed, and undoubtedly needs no further explanation, that the nations which promulgated the Charter wanted to develop further the basic concepts of the prevailing International Law and bring it into a legal form, and that in doing so they completely lacked any intention of placing themselves in opposition to the rules of International Law.

All written law, however, requires careful and scholarly examination and revision so that a reasonable application in practice will be possible. Only in this way will the courts be placed in a position to reach verdicts Which are really in accordance with the facts.

The International Military Tribunal, therefore, on the basis of the judge's right of examination to which it is entitled, will have to examine the relationship of Article 9 of the Charter with the general basic legal principles of International Law and the national laws of civilized nations.

In this connection we have to start from the legal significance of the assertion, permissible according to Article 9 of the Charter, that an organization can be criminal.

Article 9 varies basically from the Corporate Penal Law (Verbandsstrafrecht), as it has been introduced, for example, into English law by Section 2 of the Interpretation Act of 1889.

Punishment according to the Corporate Penal Law (Verbandsstrafrecht) is directed at the organization. According to Article 9, the sentence can no longer affect the organizations because the latter have been dissolved and no longer exist. The sentence is rather directed against the individual members, because the verdict of the Court is the basis for the subsequent proceedings according to Law No. 10.

Furthermore two important differences must be mentioned:

1. According to the Criminal Code for Organizations, and especially English Corporate Penal Law, no imprisonment (Freiheitsstrafe) is permitted.

Article 9 should be, nevertheless, the basis for the inflicting of prison sentences and even of death sentences provided for in Law No. 10.

2. According to English Corporate Penal Law, no crimes and offences can be prosecuted.

If we examine English jurisdiction, we find that corporations have been condemned only on account of transgressions, especially on account of

neglect of public obligations, e.g., failure to repair streets or bridges, although a similar obligation existed blocking a street by a railway company, or on account of publishing a libel.

Article 9 on the other hand deals with major crimes.

Article 9 of the Charter does not mean, accordingly, the introduction of the Corporate Penal Law into International Criminal Law.

A number of foreign laws have been quoted by the prosecution, according to which it should be permissible to declare an organization criminal: from American law, the law of 28th June, 1940, and the "California Act"; from English law the "British India Act, No. 30" of 14th November, 1936; from French law, the law of 18th December, 1893, Section 263 of the French Penal Law Code, Section 1 the law of 26th August, 1944, and two legal decisions from Russian law.

THE PRESIDENT: Dr. Gawlik, I believe you are reading too rapidly.

DR. GAWLIK: The following German laws were also cited:

1. The decisions of Articles 128, 129 of the German Legal Code Book of 1871.
2. The law of 22nd March, 1921, RGB1. 1921, p. 235.
3. The law of 21st July, 1922, RGB1. 1922, p. 585.

In this connection it should be noted that according to all these laws, only individual persons may be prosecuted and that in the proceedings against such prosecuted individuals it can be established that the organization has a criminal character without this having a legal effect upon the non-prosecuted members. It can thereby be established in proceedings against some members of the organization that the organization pursues aims contrary to law, while in further proceeding against other members this can be denied.

Non-application of legal procedure against members who are not accused is nevertheless the decisive factor which differentiates these laws from Article 9 of the Charter. The decision according to Article 9 of the

Charter is, in contrast to the laws cited by the prosecution, binding in the proceedings against the individual members before the Military Tribunal, and indeed the sentencing of organizations through the International Military Tribunal contains not only effective confirmation of the objective facts in the case, but furthermore an effective confirmation of guilt for all the members, as well as consciousness of the violation of the law, i.e., a legal efficacy of a hitherto completely new significance in penal law.

Therewith Article 9 deals neither with the further development of corporate law, nor with the sentencing of individual persons because of their membership in a criminal community of persons, but with a judgment of the collective members the organizations, because the essential facts which form the basis for the later judgments in the proceedings, according to Law No. 10, have been determined juridically for the collective members. In the subsequent proceedings, solely the question of membership is still to be examined. In other words: We are here concerned with the collective judgment of all members of the organization.

What is the attitude of International Law scholars toward the question of collective condemnation?

The majority of the American, English and French International Law scholars reject collective condemnation as “arbitrary and contrary to the elementary principles of justice.” (Garner in International Law and World Law, Vol. I, page 154). The well-known authority on International Law, Garner, states rightly that collective condemnation, even if it is applied in the mildest form, necessarily includes the punishment of innocent persons. Garner further goes on to explain that for this reason other just measures would not have the same effect. The French legal scholars, Bonfils and de Martens, have condemned the basic principle of collective punishment in detailed dissertations and expressed the hope that collective condemnation would disappear altogether.

These statements should be agreed to in their full extent.

In the proceedings against the organizations past crimes are to be atoned for. In order to achieve this aim, however, the indirect way of condemning the organizations is not necessary. This aim can be achieved by instituting proceedings against individual persons who participated in these crimes, as was also done in a large number of cases.

On the basis of the general legal principles of International Law and the national laws of civilized States, therefore, use should be made of the optional rule of Article 9, while refraining from declaring the accused organizations as criminal. The persons responsible for the crimes can be punished in individual proceedings.

There now arises the other questions; whether it is possible in this trial to establish all the required facts.

To do so would appear impossible and not feasible. Even furnishing proof that all members of the SD were informed of certain criminal goals would appear impossible. Guilt can always be established for a person only. All guilt is bound to a person. If many persons participate in an offence or a crime the judge must examine the entire group of persons involved singly, in order to determine guilt, innocence or complicity in a concrete and well-defined manner.

It seems entirely impossible, however, to determine that all members were cognizant of the illegality and unrighteousness of the goals and tasks.

In this connection we must also examine what was to be the standard for members of the SD to determine whether the goals or means were illegitimate or unrighteous. According to the German law in force while the organization was in existence, these goals and means were permitted, as I shall show in the section dealing with facts. It may be conceded that the German legal measures conflicted in part with the provisions of International Law and that therefore goals and methods - while not illegal nor wrong according to the law of the German State - can nevertheless be considered illegitimate and unrighteous according to the concepts of

International Law. But this is not the decisive point. What counts is whether the members, that is all the members, recognized the illegality and unrighteousness of goals and methods which were legitimate according to German law.

The well-known teacher of International Law, Oppenheim, has stated that the law cannot demand that an individual be punished for a deed which he was forced to commit in virtue of the law.

If the best-known authorities on International Law cannot agree as to what is right and wrong, can one demand from ordinary members of the organization that they recognize it?

The capital crimes which were discussed during the trial, for instance, the annihilation of the Jews, and the inhuman treatment in the concentration camps, require no discussion as to right or wrong. The organizations, however, are charged with a great number of punishable offences, and the question as to whether

1. the perpetrators generally and
2. furthermore all members knew of the injustice and the illegality cannot be answered lightly in the affirmative.

Particularly where acts and deeds were committed during the war it is very difficult to decide whether they were recognized as illegal and unjust. In peace time everybody knows that he must not kill and that foreign property is inviolable. These acts are, however, partly justifiable in war time. The soldier can kill the enemy. The confiscation of foreign property is permitted under certain circumstances. The individual who commits the deed and beyond him the members, have, therefore, only the consciousness of illegal acts which have been committed during the war, when they are aware of the limitations which are set by law.

A strict examination of these organizations is particularly necessary because their members were for the most part men who had no juridical knowledge, and to whom the limitations of International Law were

unknown. I believe that this is also the opinion of the United States Chief Prosecutor, who described in his opening speech of 20th November, 1945, how a soldier assigned to an execution squad could not hold an investigation as to whether the execution was legally admissible.

While examining the question concerning the knowledge of the members as to illegality and injustice, the mistake should not be made of assuming that the simple members of the organization had the same knowledge which we now have gained in this process, on the basis of documents coming from secret archives.

Particularly in the proceedings against the SD a great number of secret papers, documents and regulations were produced, which were only intended for the internal administration of individual offices. The content of these papers, therefore, testifies that they had not been brought to the knowledge of all members but only to a small definite circle. In this connection I wish to refer for example to the well-known document L-180, the Stahlecker Report, dealing with the activity of Task Group A.

It can, therefore, now be ascertained that a great part of the evidence produced by the prosecution does not suffice for the collective condemnation of the members of the SD. The documents do not even prove that the offenders themselves were conscious of illegality, because in order to establish this, one must know the particular circumstances of the act. And it must still be proved that the members of the SD:

- (a) knew of these acts and
- (b) recognized that the acts were illegal or at least wrong.

I do not consider it necessary to discuss this question in the second part of my statement regarding each act with which the SD was charged, but in my opinion it is sufficient if I describe the problem in general and leave the examination in individual cases to the Tribunal. In each individual case, however, with which the SD is charged and with each document submitted against the SD, the Tribunal -

THE PRESIDENT: Would that be a convenient point to break off?
(The Tribunal adjourned until 27th August, 1946, at 1000 hours.)

TUESDAY, 27TH AUGUST, 1946

DR. GAWLIK: May it please the High Tribunal:

Yesterday I paused at the question whether it would be possible at all to determine those prerequisites which are necessary in order to declare an organization criminal. I shall continue.

My statements made hitherto should lead to the conclusion that the evidence of guilt cannot be summarily determined by drawing conclusions from the number of crimes and the type of crime committed, from the knowledge of all the members of these deeds and from their consciousness of their illegality. It is, on the contrary, necessary that the proof of the knowledge and consciousness of illegality should only be considered in special proceedings in the case of each individual member of the organizations, for it depends on the circumstances; therefore the individual members must be given the opportunity to reply to them. Even if the members might have had knowledge of the real facts of individual criminal acts, that does not prove that they also knew that their organizations were involved therein.

Now, I shall turn to the next section.

A condemnation of the organizations is furthermore in opposition with the principle of penal law - nulla poena sine lege. This principle has already been treated in detail by the defence counsel of the principal defendants. I shall not repeat these statements, but only point out briefly the following points of view:

In his speech of indictment on 20th November, 1945. the American Chief Prosecutor said that the defendants could not invoke this principle

because they had themselves transgressed it. This argument in no way concerns the members of the organizations, because the members had no influence on the legislation, but were themselves objects of the legislation.

The Prosecutor of the Union of Soviet Socialist Republics pointed out in the discussion of this principle in his final speech on 29th July, 1946, that the Charter of the International Military Tribunal was an inviolable law and absolutely had to be carried out.

The Charter is, however, in no way violated and will also be carried out if the Tribunal considers the principle *nulla poena sine lege* and does not condemn the organization, for Article 9 of the Charter is merely an optional regulation. (Kann-Vorschrift). The Chief Prosecutor of the Union of Soviet Socialist Republics further asserted that the Charter represents principles which are contained in a succession of international agreements and in the legislation of all civilized peoples.

International agreements and laws of civilized peoples only show that punishable offences must be judged in individual proceedings.

The principle of collective judgment of groups of persons was up to now unknown in International Law. On the contrary, it is denied, as said before, by the science of International Law.

Until the First World War, it was the custom to include in peace treaties amnesty clauses for war crimes committed. After the First World War the general principle developed that individual members of fighting forces might personally be made responsible after the war for violations of the laws of war. I refer to Fenwick in International Law, 1924, Page 578.

The declaration of the Chiefs of State of the United States of America, Great Britain and the Union of Soviet Socialist Republics of 2nd November, 1943 mentioned by the Prosecutor of the Soviet Socialist Republics, orders expressly that individuals shall be made responsible. This declaration contains no statement to the effect that the collective condemnation of groups of persons is permissible.

Article 9 of the Charter is therefore not the expression of an internationally recognized legal maxim. This clause on the contrary creates a new law and cannot be made applicable with retroactive force, for instance, for the time since 1921, as proposed by the Chief Prosecutor of the United States or even for the time from 1933 on, as proposed by the Prosecutor of the Union of Soviet Socialist Republics in his final speech on 29th July, 1946.

The condemnation of the organizations is therefore in opposition to the principle *nulla poena sine lege*.

In the second section of Part 1, I come to the discussion of the questions of procedure resulting from Article 9 of the Charter. In legal procedure, according to that Article, an organization or group may be said to be criminal.

(a) In the trial of any individual member of any group or organization, and

(b) in connection with any act of which the individual may be convicted.

Both these hypotheses must be realized. Of the principal defendants, only the defendant Kaltenbrunner, Chief of the Security Police and SD, is involved, as a member of the SD.

It can be gathered from the words “in connection with any act of which the individual may be convicted,” that every act of the member of the organization or group is sufficient to declare the organization or group as criminal.

This, however, cannot be the meaning and purpose of this definition, as I should like to illustrate by the Act of the United States of 28th June, 1940, already quoted.

When persons belonging to one of the associations mentioned in the Act of 28th June, 1940, are arraigned before a tribunal in several different proceedings, an admittedly extensive examination of evidence, but doubtful

in its results, must be effected in each proceeding to determine whether the association to which the person belongs fulfils the primary conditions contained in the above legal stipulations. Then it could happen that in one trial it is established that the organization had pursued the purpose named in the Act of 28th June, 1940, while in other trials the result of the testimony is not considered as sufficient.

In order to avoid these difficulties, it could be decreed by a provision of the law that the trial be held against one or several members of the organization, while the other members who have not yet been accused are given the possibility of a legal hearing and if a member is condemned on account of his membership in an organization within the meaning of the Act of 28th June, 1940, the Tribunal makes the declaration, to take effect for all members of the organization, that the organization fulfils the purpose mentioned in the Act of 28th June, 1940.

Such provisions would achieve the following:

(1) the testimony on the aims, tasks and activities of the organization would be taken only once, and

(2) contradictory decisions on the objective tasks, aims and activities of the organization would be avoided.

This purpose is apparently also the intention of Article 9 of the Charter. The situation is to be avoided whereby the Military Tribunals in the individual occupation zones in the proceedings against the members of the accused organizations, would have to examine the question of the character of the organization each time by lengthy examination of evidence, and perhaps come to contradictory decisions. To be sure, it would -

THE PRESIDENT: Dr. Gawlik, are you arguing that if any individual were tried under this Act of June, 1940, the declaration of this Tribunal under Article 9 would have any effect in the Trial under that Act of June, 1940? Is that your argument?

DR. GAWLIK: No, your Lordship. I wanted to explain the stipulation laid down in Article 9 in line with the Act of June, 1940. The Act of June, 1940, is something quite different and has no connection with Article 9. I wanted to explain in connection with the Act of June, 1940, which was mentioned by the Chief American Prosecutor, what importance a stipulation would have such as is set down in Article 9.

THE PRESIDENT: What - what importance are you suggesting it would have?

DR. GAWLIK: Article 9, as I shall set forth, has the following significance:

One member must be accused because of his membership in an organization, an organization which according to Article 6 of this Charter pursues crimes. Then, in this Trial against one member, all the facts must be cited against this member because of his membership in the organization, and then the facts that have been ascertained, about the aims, tasks and activities of the organization, if a sentence is reached, can be used in the trials against the other members; only the objective facts, not the guilt, for guilt is an individual matter.

Your Lordship, may I cite an explanatory example. Here one member of the SD would have to be selected and this member would have to be accused, as I shall set forth, because the SD was part of an organization which permitted Crimes Against Peace, War Crimes, and Crimes Against Humanity. If this member is now punished because of his membership in an organization of that nature, you are objectively determining that the SD is an organization of that kind, therefore the objective findings concerning the aims, tasks and activities of the SD can be used in the proceedings against the other members.

THE PRESIDENT: Well, I think I follow that argument based upon the first paragraph of Article 9, is that right? It is based upon your construction or interpretation of the first paragraph of Article 9?

DR. GAWLIK: Yes.

THE PRESIDENT: Are you saying that a decision of this Tribunal upon that would have any importance or effect upon a trial under the act of 1940?

DR. GAWLIK: No, that is only an example.

THE TRIBUNAL (Judge Biddle): The law of 1940 is a sedition law, is it not? That is the Sedition Law of 1940?

DR. GAWLIK: Yes.

THE TRIBUNAL (Judge Biddle): You say the prosecution, as it did in its argument, depended on that act to show that this type of group condemnation was used in other countries, it made that analogy?

DR. GAWLIK: Yes, I know -

THE TRIBUNAL (Judge Biddle): Yes, you say that is not a true analogy.

DR. GAWLIK: Yes.

THE TRIBUNAL (Judge Biddle): And the reason you say that is that if one individual were tried under the Act of 1940 - do you follow?

DR. GAWLIK: Yes.

THE TRIBUNAL (Judge Biddle): First it would be necessary to show that he belonged to an organization of which the purpose was to overthrow the Government by force or violence, right?

DR. GAWLIK: Yes.

THE TRIBUNAL (Judge Biddle): Now, the Court then would have to decide first the purposes of the organization, right?

DR. GAWLIK: Yes.

THE TRIBUNAL (Judge Biddle): Now, you say also that if a second individual were, at a later time, tried under that Act that the Government would again have to prove -

DR. GAWLIK: Yes.

THE TRIBUNAL (Judge Biddle): - that the purposes of the organization was to overthrow the Government by force or violence, right?

DR. GAWLIK: Yes.

THE TRIBUNAL (Judge Biddle): And therefore, that the analogy is not true because the finding as to the organization in the first trial against the first individual would have no effect -

DR. GAWLIK: Yes.

THE TRIBUNAL (Judge Biddle): - on the second trial against the second individual, and that that principle is inherent in all Anglo-Saxon law because the finding of a fact against one individual cannot affect the trial against the second individual, is that your argument?

DR. GAWLIK: Yes.

Certainly, it would be sufficient for the accomplishment of this purpose if the legal effect went only as far as the objective determination of the tasks, aims, and activities of the organization and the determination of guilt were left to the subsequent proceedings.

With regard to Article 10, as it was pointed out -

- The English is not coming through -

With regard to Article 10, as it was pointed out, the condemnation of the organizations according to Article 9 of the Charter contains not only the objective statement of the aims, tasks, and activities of the organizations, but beyond this purpose the confirmation of the guilt of the members.

Consequently, Article 9 of the Charter, besides legal confirmation of objective and subjective factual evidence, also has a legal criminal meaning.

This juridical aim which is evidently pursued by Article 9 of the Charter can, however, only then be reached if this decision is so interpreted that the member is sentenced on account of membership in an organization whose aims or expedients are punishable according to Article 6 of the Charter and not on account of any action.

Another interpretation would have no meaning and no purpose.

Only a condemnation of the defendant Kaltenbrunner on account of membership in such an organization could, therefore, according to Article 9 of the Charter, justify the condemnation of the SD.

In consideration of these statements the formal hypotheses for the application of Article 9 of the Charter do not seem suitable to me.

It would be supposed that the defendant Kaltenbrunner would have to be charged on account of his membership in the SD as a criminal organization within the meaning of the Charter, and that in this proceeding against the defendant Kaltenbrunner the character of the SD would be examined. In this case only would there be a case at hand - as the Chief Prosecutor of the United States has stated - on the basis of which the criminality of the SD could be examined. Such a charge has, however, not been made against the defendant Kaltenbrunner.

The defendant Kaltenbrunner has not been accused for belonging to the SD as a criminal organization, but is to be sentenced for other punishable offences.

Therefore, taking the statement of the American Prosecutor as a basis, it must be considered as inadmissible that, for the proof of the criminality of the SD, evidence has been produced, which has no connection with the criminal actions with which the defendant Kaltenbrunner has been charged.

Finally, it must still be proved what connection must exist between the period during which the accused member belonged to the organization and the period for which the organization is to be declared criminal. This purely legal question is completely different from the question of the period during which an organization was criminally active. Here, the matter is only as follows: In the proceedings against a defendant, can the organization of which he was a member be declared criminal also for the period during which he did not belong to the organization.

According to the statements made by the American Prosecutor, the criminality of the organization has to be tested only on the strength of the defendant's action. Such action of the defendants limits the examination as to whether the organization can be declared criminal, also from the standpoint of time. The evidence in the proceedings against an accused member can only justify the decision regarding the organization for the period during which the defendant belonged to the organization.

This limit in time is justifiable also for the following reasons: He who shall be sentenced has the right to be heard. This right to be heard is not met by making of statements before the Court. On the contrary it includes the right to participate in the whole proceedings. According to Article 9 of the Charter, this right to participate in the entire proceedings is obviously not to be annulled, but restricted to only one person of the organization mentioned, in order to save time, based on the principle that the depositions of further members as to the aims and tasks and activities of the organization would be cumulative. A member who did not belong to the organization during the whole period for which the organization is to be declared criminal can define his attitude towards the question of the aims, tasks and activities of the organization only for the duration of his membership. According to the principle of legal hearing, it is, therefore, necessary that a member participate in the proceedings as a defendant, if he was a member of the organization during the whole period for which the organization is to be declared criminal.

For these judicial reasons also the organization can be declared criminal only for the period during which the defendant was a member of it. Should an organization be declared criminal for the entire duration of its existence, then a member must be indicted who belonged to it during the whole period.

For judicial reasons the SD, therefore, could be declared criminal only for the period during which the defendant Kaltenbrunner was Chief of the

Sipo and the SD, that is, since January, 1943.

The crimes with which Amter III and VI are charged must, therefore, have been committed during this period.

I now come to the real evaluation of the facts based upon the results of the evidence. This is my second main part, and I shall deal with general statements first of all.

The prosecution has submitted a large number of documents in which the SD is mentioned, thus wishing to prove that the Amter III and VI were those responsible for them. However, the prosecution itself has said that in common usage and even in orders and decrees, "SD" was used as an abbreviation for "Sipo and SD" (I refer to the Trial Brief against the Gestapo and SD, Page 19 of the German, and to the German record, Page 1832).

Even according to the prosecution, a document mentioning the SD is no proof that this deed must have been committed by members of Amter III and VI. These may just as well be deeds of the Sipo. This has been proved by the evidence.

The witness von Manstein, one of the highest military leaders of the former German Wehrmacht, was heard before the Tribunal. This witness spoke repeatedly of the SD in his hearings before the Tribunal and the Commission. When I asked the witness what he understood by SD, he declared that he was not quite certain. My further question whether he believed it to be the Amter III and VI he answered in the negative.

The shooting of a Commando troop in the north of Norway was mentioned in the examination of the defendant Jodl on the witness stand. The defendant Jodl was told that the prisoners had been shot by the SD. Thereupon the defendant Jodl declared, and I refer to Page 11014 of the record in German: "Not by the SD, that is not correct, but by the Security Police."

I furthermore draw your attention to the affidavit of the defendant Keitel - SD 52 - who declared under oath that he only realized during the Trial at Nuremberg that the opinion frequently reigning also in military circles concerning the tasks and competence of the SD as an executive police organ was not correct. Therefore in military language and decrees, the SD was often mentioned when the competent police organ with executive power was meant. Keitel declared further that concerning the competencies of the SD an erroneous conception had existed which had led to the wrong interpretation of the abbreviation "SD."

In this connection also I refer to the affidavit of the former Chief of the General Staff of the Luftwaffe Koller (Document Jo 58, Page 179 and following in Document Book Jodl) In this affidavit Koller reports upon a conference with Hitler to discuss the situation. At this conference Hitler gave the order to transfer all bomber crews of the different Allied forces to the SD and to liquidate them through the SD. Then Koller describes a conversation he had with Kaltenbrunner after this conference. According to Koller, Kaltenbrunner made the following statement during this conversation: "The Fuehrer's conceptions are quite erroneous. The tasks, too, of the SS are constantly being misinterpreted. Such things are no concern of the SD."

The French prosecution has submitted a great number of documents in which the SD is mentioned. I have shown these documents to the witness Knochen, who was examined before the Commission. Knochen was the Commander of the Security Police and the SD in France. In connection with these documents he said that there had been a confusion of words, and that SD should be interpreted as "police." Upon my question: "What does transfer to the SD mean?" the witness Knochen answered and I quote (Commission Record, Page 414): "This means transfer to the executive section, Amt IV of the Security Police."

I showed the witness, Dr. Hoffmann, Document 526-PS before the Commission. Hoffman was an official of the Security Police and never belonged to the SD. Document 526-PS concerns the carrying out of a Commando order in a Norwegian fjord. This report states: "Fuehrer order carried out by SD."

Upon my question to the witness Hoffmann, what was to be understood by SD, he answered literally: "Since this seems to be an executive measure, SD must here be interpreted as Security Police, since the Wehrmacht often mixed up the two ideas."

The prosecution has furthermore submitted Document 1475-PS. This is a report of the commander of the prison of Minsk, dated 31st May, 1943, in which he reports that Jews had been brought into the prison by the SD, through Hauptscharfuehrer Ruebe, and that the gold bridges, fillings and crowns had been removed from their teeth. In this connection I have submitted Affidavit SD 69 of Gerty Breiter, a stenographer employed with the Commander of the Security Police and the SD in Minsk. Gerty Breiter states that Ruebe was an official of the State Police, and that the SD in Minsk had nothing to do with Jewish affairs. The sole activity of the SD in Minsk was to make reports upon the general moods and opinions of the public. There were no SD prisons in Minsk.

This confusion of words is apparently due to the fact that the members of the SS Special Formation SD, which, as I said, in the introduction, was something entirely different from the SD Intelligence Service, wore the SS uniform with the SD insignia.

In the territories occupied by Germans, all members of the RSHA, including all members of the Stapo and the Kripo, even those who were not members of the SS or SS candidates, wore the SS uniform with the SD insignia. Thus every member of the Sipo was characterized as an SD man, and measures carried out by the Security Police were considered to be SD

measures. I refer in particular to the Commission Record, Pages 446-448, German, and to the Court Transcript, Page 14.

THE PRESIDENT: Did you say then that all members of the SS, including the Kripo and the Sipo, when they were working in the East, were in the uniform of the SS with an SD badge on it?

DR. GAWLIK: Yes. The witness has given this in evidence, your Lordship.

THE PRESIDENT: Go on.

DR. GAWLIK: In this connection I point out that about 90 per cent of all members of Amter III and VI were honorary, and only a small part of them belonged to the SS or were SS candidates (Affidavit SD 32). During the war, a large number of the members of the SD, Amter III and VI, were women. These persons were not entitled to wear the uniform of the SS Formation SD.

According to the subdivisions of the Trial Brief against the Gestapo and SD, I shall discuss:

- (a) The charge of conspiracy.
- (b) Crimes Against Peace.
- (c) War Crimes.
- (d) Crimes Against Humanity.

I shall now refer to the conspiracy charges. I still do not have Evidence III of the English Trial Brief against the Gestapo and SD.

Amter III and VI are accused of having participated in a conspiracy to commit Crimes Against Peace, War Crimes and Crimes Against Humanity.

There are three possibilities for an organization to be in contact with a circle of conspirators:

(1) The organization can belong to the circle of conspirators. This presumes that all the members of the organization participated in the agreement or the secret plan to commit illegal actions or to carry out legal actions by illegal means.

It must therefore be proved that

(a) Such a plan existed.

(b) All members adopted this plan as their own.

(2) Organizations can have the aim and the purpose of supporting participants in a conspiracy. For this it is required that:

(a) There must be a secret plan or an agreement.

(b) The organization must objectively have pursued the aim of aiding one or more of the participants in the execution of the plan,
and

(c) All members must have known of it and desired it.

(3) The organization can be used objectively by conspirators, to carry out the secret plan without the members realizing it.

In this case there can be no question of punishable participation of the organization, because the characteristic of a factual state of guilt is lacking. The organization is merely an unpunished tool and cannot be declared criminal.

1. The prosecution has submitted that not all participated in the conspiracy, but that all contributed to the offences (Transcript, Page 1690, German text). This indicates that the prosecution does not want to contend that the organizations were participants in the conspiracy. I shall therefore not deal further with this question.

The punishable support of a conspiracy, also requires -

(a) the existence of a secret plan,

(b) the knowledge of the members.

Therefore the existence of a secret plan and the members' knowledge thereof must also be proved.

Hitherto it has in no way been shown that such a plan for the commission of Crimes Against Peace, War Crimes, and Crimes Against Humanity actually existed. This has already been presented in detail by the

defence counsel for the principal defendants, and I do not want to repeat these statements, but I should like briefly to point out the following:

A conspiracy cannot be considered proved until evidence is brought as to:

- (1) When,
- (2) Where,
- (3) Between what persons this common agreement was reached, and
- (4) What its contents were.

Even if such a plan should have existed, it has in no way been shown that it was known to members of the SD, and that, therefore, they had the purpose in mind of supporting such a conspiracy with their activity. The prosecution has decided that such a conspiracy existed in particular from facts mentioned in the so-called key documents. The facts mentioned in these documents were, however, kept strictly secret and were known only to the persons immediately concerned with them. Members of the organizations which participated had no knowledge of these things; this can be assumed as known to the Tribunal.

If the fact of a secret plan for the commission of Crimes Against Peace, War Crimes and Crimes Against Humanity arises from the key documents, the members of the SD did not know this, and therefore did not have the intention of supporting such a circle of conspirators with their activity.

The facts which the prosecution produced to prove that members of the SD knew of a conspiracy cannot be regarded as “firm” assumptions, nor as “probable” assumptions, but at most as “light” or “rash” assumptions which are without significance.

Furthermore, I believe that the examination of witnesses and the affidavits have brought proof that members of the SD had no knowledge that a secret plan for the commission of Crimes Against Peace, War Crimes and Crimes Against Humanity existed and that, therefore, there was no

intention in the SD to support such a circle of conspirators with their activity.

Therefore, in this trial before the International Military Tribunal it does not matter whether the SD supported the SS, the Secret State Police, the Party, or individual persons of the State leadership, unless the prosecution has brought the proof of the prerequisites which I have indicated:

(a) Existence of a secret plan for the commission of crimes according to Article 6 of the Charter and

(b) Knowledge of the members of the SD.

Furthermore, the factual submission of the prosecution concerning the co-operation of the SD with the SS, the Secret State Police, or other persons, require correction.

I shall not read Pages 46, 47, 48, 49, 50, 51, 52, 53, or 54. I shall continue on Page 55 in the second paragraph.

Concerning the aims, purposes and methods of the indicted Amt III, I should like to refer to statements made in Document SD 70, the handbook of the Supreme Headquarters of the United Nations of April, 1945. There it says:

“The SD maintained for its purposes a network of reporters throughout all fields of life in Germany - some words are missing - who were recruited from all social strata and professions. The information gained through reporters was used in the situation reports -

These reports are exceptionally frank and contain a complete and uncoloured picture of the mood and attitude in Germany -

The correctness of this is proven by the 649 affidavits submitted in my summary and made by former full-time and honorary workers, Vertrauensmänner (persons entrusted with special tasks) for the total area of the Reich and for parts of the Reich.

The aims, purposes and activities of Amt VI are shown by the Affidavits SD-61, 62 and 66 from Document SD-1.

In regard to Amt VI, I refer particularly to Affidavit SD- 66.

I shall now turn to Section (b): Crimes Against Peace (Statement of Evidence V of the English Trial Brief against the Gestapo and SD).

As committing a Crime Against Peace the SD is accused of having staged so-called border incidents before the outbreak of the war to give Hitler an excuse for starting the war. The prosecution, however, referred to only one border incident in which the SD is alleged to have participated. That is the alleged attack on the Gleiwitz radio station.

In this connection the prosecution made reference to the affidavit of Alfred Naujocks, of 20th November, 1945. This is Document PS-2751. The deponent of Document PS-2751, Alfred Naujocks, was heard before the Commission. On that occasion he declared that the execution of the attack on the Gleiwitz radio station was not included in the aims and purposes of Amt III and VI (Record of the Commission, Page 147 of the German text).

The witness further testified that no sections of Amt III and VI were used for the execution of that border incident in Gleiwitz and that the men who with him attacked the Gleiwitz station did not belong to the SD, Amt III (Record of the Commission, Page 150).

The witness also stated that by the term "SD men" in his affidavit of 20th November, 1945, he did not mean the members of any definite office of the RSHA; but common usage of the term "SD men" referred to RSHA members of all offices which were subordinate to Heydrich.

The witness further stated that he was charged with the execution of the border incident at Gleiwitz, not because he belonged to Amt VI and worked there, but that exclusively personal reasons made for that decision (Record of the Commission, Page 150). The witness testified that on the basis of the conversation he had had with Heydrich he had gained the impression that Heydrich would have given him that assignment even if he had not been a member of Amt VI and the SS. The order for the execution of this

assignment reached the witness Naujocks not through the official channels of the Chiefs of Amt III or VI. The Chiefs of Amt III and VI had no knowledge of this action.

The members of the SD, Amt III and VI, had no knowledge that the attack was carried out by Naujocks, a member of Amt VI. Particularly the members of the SD Leitabschnitt which was in charge of Gleiwitz and the output of the SD had no knowledge of this activity, and they could not have had because Naujocks had been forbidden to get in touch with any members of the SD whatsoever in that territory.

The statements of this witness have been reaffirmed by witness Somman and through the Affidavit SD 11 deposed by Dr. Marx.

I also submitted 215 affidavits for the office of the RSHA as well as for all territories of the SD Leitabschnitte and the SD Abschnitte, particularly for those situated in the regions of Katowice, Danzig and Saxony. Those affidavits testify that the members of the SD during the critical time had no knowledge of the faked border incidents or the participation of the SD in them.

Page 59 will not be read. I shall turn to Page 60, which deals with the Einsatzgruppen.

In order to judge whether the SD can be declared criminal on the grounds of the activities of the Einsatzgruppen, the following questions must be examined:

1. Did the Einsatzgruppen A, B, C and D, which were assigned in the East to the army groups, belong to the organization of Amt III and VI?
2. Were parts of these office organizations used in these Einsatzgruppen?
3. Did the Amt III, VI or III/VI give orders to the Einsatzgruppen to commit crimes against the laws of war and against humanity?

4. Did the members of the Inland Information Service (Amt III) or of the Foreign Information Service (Amt VI) have any knowledge of activities of the Einsatzgruppen which are crimes in the sense of the Charter?

First I must rectify an error. In this Trial and before the Commission the Einsatzgruppen have repeatedly been designated as Einsatzgruppen of the SD, up to a short time ago. As an example, I refer in particular to the records of Keitel, Dr. Best, Hauser and von Manstein. (These are in the Record at Pages 72/46/47, 14442, 14706, 15003-4, 15007, 15010-11, and 15041.)

This designation is wrong.

The four Einsatzgruppen employed in the East were designated by A, B, C and D. They had under them the Einsatzkommandos, which were designated by the numbers 1 to 12. Thus the word "SD" is mentioned neither in the designation of the Einsatzgruppen nor of the Einsatzkommandos. Furthermore, there was no reason for that, since, according to the evidence submitted by the prosecution, only 3 per cent of their members were part of the SD Amter III or VI. The members of the SD were in the eighth place, as far as membership was concerned. I refer you to the statistics found in Document L-180 submitted by the prosecution. (Repeated in the Record at Page 1676 of the German text.)

The designation of the Einsatzgruppen is also shown by the distribution list of prosecution Document D-569. This shows the various relationships. The Einsatzkommandos 1-a, 1-b, 2 and 3 were under Einsatzgruppe A. The Einsatzkommandos 7-a, 7-b, 8, 9, Moscow, were under Einsatzgruppe B; 4-a, 4-b, 5 and 6 were under Einsatzgruppe C; 10-a, 10-b, 11-a, 11-b and 12 were under Einsatzgruppe D.

The setting up of the Einsatzgruppen was not ordered by Amt III, VI, or VII, but by Himmler on the basis of an agreement with the OKH. I refer you to the testimony of Dr. Best, Schellenberg and Ohlendorf, to Exhibit

USA 1557 and Affidavits SD Nos- 41 and 46. The evidence has shown further that the Einsatzgruppen and Einsatzkommandos were not under the orders of Amts III, VI and VII. (I refer again to Exhibit USA 557, Affidavits SD Nos-41, 44 and 46, to the record on Pages 1812-14, and 1850-51, to prosecution Document L-180, Pages 2 and 3, to the record at Pages 10906- 08 and Document PS-2620.)

If one considers in particular the constitution of the Einsatzgruppen which is set forth on Page 1676 of the record in German, one will have to admit, as has been deposed by the witness Hoepfner and confirmed by the witness Bendt in Affidavit SD 41, that this concerns an affiliation of a special kind of persons who did not belong to the organizations of Amter III, VI or VII.

The evidence has further shown that no parts of the organizations of Amter III, VI or VII were employed in the Einsatzgruppen and Einsatzkommandos, and that the Amter III, VI and VII did not issue any orders for the mass destruction carried out by the Einsatzgruppen. I refer to Affidavit SD 61, the record of the Commission at Pages 2181 and 2217, Affidavit SD 41, and particularly the answers to questions 6 and 9, and to Affidavit SD 44, Nos- 4 and 5.

The Einsatzgruppen and the Einsatzkommandos are special units which deviated in their composition entirely from the structure of the Security Police and SD in the Reich itself. I refer in this connection to the statements of Ohlendorf and Hoepfner and to the Affidavits SD 41 and SD 46. The witness Best testified (on Page 14431 of the record):

“They were Security Police Units of a special kind.”

It is of decisive significance for the question whether the organization can be declared criminal that no parts of the SD, Amter III, VI or VII, were employed in the Einsatzgruppen, but only individual members were assigned to these Einsatzgruppen as a result of legal regulations. In this connection Hoettl's affidavit of 10th April, 1946, seems especially

important to me. I emphasize that this is a prosecution document. Hoettl declared in the affidavit mentioned that the membership of the people in the SD was inactive during their affiliation with the Einsatzgruppen. (Pages 14504-5 of the German record.)

In so far as members of Amter III, VI and VII were assigned by legal order to the Einsatzgruppen and Einsatzkommandos in the East, I refer for their tasks and activities to the testimony of Dr. Ehlich, and von Manstein, and to Affidavit SD 69.

The selection of the members of the Security Service for the Einsatzgruppen and Einsatzkommandos was not on the basis of their position and duties in the home offices. For that point I refer to the testimony of Ohlendorf and Affidavits SD 41 and SD 45.

Thus I come to the conclusion:

- (1) Einsatzgruppen A, B, C and D did not belong to the Domestic Intelligence Service, Amt III, to the Foreign Intelligence Service, Amt VI, or to Amt VII.
- (2) No parts of this organization were used for this purpose, but individual members were assigned to the Einsatzgruppen.
- (3) The legal position of these persons was the same as, for, example, that of persons who had been called up for military service. Their affiliation with Amter III, VI, or VII was inactive. They were no longer subject to instructions from their home offices.

I shall omit the next pages, 64, 65, 66, 67. Pages 68 to 71 refer to the Einsatzkommandos in prisoner-of-war camps (Statement of evidence).

THE PRESIDENT: Dr. Gawlik, the Tribunal understands that the SS, the Gestapo and the SD all disclaim responsibility for the Einsatzgruppen. Could you tell the Tribunal who is responsible for the Einsatzgruppen?

DR. GAWLIK: The Einsatzgruppen were subordinated to - the responsibility may be seen from my statement on Page 61. I should like to

refer you to the testimony of Dr. Best, Schellenberg, Ohlendorf, and document -

THE PRESIDENT: Dr. Gawlik, the Tribunal would like to know who you say was responsible for the Einsatzgruppen. They do not want to be referred to a crowd of documents and a crowd of witnesses. They want to know what your contention is.

DR. GAWLIK: The Einsatzgruppen, in my opinion, were organizations of a special kind which were directly under Himmler, and for the rest, the testimony of the witnesses differs as to how far they were subordinate to the commanders-in-chief.

Some of the witnesses have stated that they were subordinate to the commanders-in-chief, and some disputed this. As far as this question is concerned, I cannot define my attitude.

THE PRESIDENT: Was it possible, according to your contention, for Himmler to control these Einsatzgruppen without any organization, and if it was not, what organization controlled it?

DR. GAWLIK: The Einsatzgruppen had their own head, as may be seen from prosecution Document 180-L, the Stahlecker report. Stahlecker was the Chief of the Einsatzgruppe A, and this man probably sent this report, which was found, directly to Himmler, and from that I may assume that the heads of the Einsatzgruppen were directly under Himmler. It was a subordinate organization along with the RSHA for occupied countries. Your Lordship, may I -

THE PRESIDENT: Can you tell the Tribunal who were the individual men who composed the Einsatzgruppen? Did they consist of SS or SA or SD or the Wehrmacht?

DR. GAWLIK: Your Lordship, the composition may be seen on Page 1676 of the German transcript. I do not remember them exactly, your Lordship, but I do know that they contained Waffen SS, Criminal Police, State Police, SD -

THE PRESIDENT: You are too fast. Waffen SS?

DR. GAWLIK: Waffen SS, Criminal Police, State Police, SD, and on this page, as far as I can recall, NSKK is mentioned, and I believe interpreters, but I cannot tell you that for certain. The various groups are stated exactly on this page, your Lordship, which is Page 17 -

THE PRESIDENT: The last that I have down is NSKK. What did you say after that?

DR. GAWLIK: No, your Lordship, not NSKK.

THE PRESIDENT: I have down Waffen SS, Criminal Police -

DR. GAWLIK: Yes.

THE PRESIDENT: State Police?

DR. GAWLIK: Yes.

THE PRESIDENT: SD?

DR. GAWLIK: Yes.

THE PRESIDENT: NSKK?

DR. GAWLIK: No, your Lordship, Kraftfahrer (drivers of motor vehicles).

THE PRESIDENT: I have struck out NSKK.

DR. GAWLIK: Your Lordship, there is a mistake. NSKK is not participating, here.

THE PRESIDENT: Is there anything else? Any Gestapo?

DR. GAWLIK: Yes, Gestapo, of course. Your Lordship, State Police and Gestapo are identical. Interpreters are enumerated in this document. I believe these were the main groups, but at the moment I cannot tell you for certain, but only as I remember it.

THE PRESIDENT: Thank you.

DR. GAWLIK: I beg your pardon, did your Lordship wish to know the chiefs of the Einsatzgruppen or the members?

THE PRESIDENT: I mean the memberships.

DR. GAWLIK: Yes, that is quite correct. Your Lordship, I wanted to add that altogether there were a thousand to twelve hundred men in these four Einsatzgruppen.

THE PRESIDENT: How many did you say?

DR. GAWLIK: One thousand men to approximately twelve hundred men, and from the SD there were three per cent. That may be seen from the document:

It is Document 180-L. The set-up is shown there.

THE PRESIDENT: We will adjourn for a recess.

(A recess was taken.)

DR. GAWLIK: Your Lordship, I shall have to correct my statement regarding the Einsatzgruppen on one point. I procured Document 180-L during the recess, and the total strength of Einsatzgruppen A was 990 men. It was composed as follows: Waffen SS, 34 per cent; drivers (Kraftfahrer) 17 per cent; administration, 1.8 per cent; SD, 3.5 per cent; criminal police (Kripo), 4.1 per cent; State police (Stapo), 9 per cent; auxiliary police, 8.8 per cent - those, your Lordship, were apparently the policemen of the occupied territories - regular police, 13.4 per cent; female employees, 1.3 per cent; interpreters, 5.1 per cent; teleprinter operators, 3 per cent; wireless operators, 8 per cent.

That is Einsatzgruppe A, as far as I know; no documents are available for Einsatzgruppen B, C, and D, but the witnesses have testified that B, C, and D had about the same ratio.

THE PRESIDENT: Then the extent is nearly four times as large as you said?

DR. GAWLIK: Yes.

THE PRESIDENT: Can you give a date for the constitution of Group A? What date was it?

DR. GAWLIK: The Einsatzgruppen were formed before the beginning of campaign, before June, 1941.

THE PRESIDENT: When you get down to 3 per cent, that must have been at a certain time. It could not have remained 3 per cent all the time, could it, or is that an establishment?

DR. GAWLIK: Your Lordship, I do not understand. Which 3 do you mean?

THE PRESIDENT: I mean teleprinter, 3 per cent; wireless, 8 per cent - did it remain at that exact figure throughout the whole war?

DR. GAWLIK: I assume so, your Lordship. We do not have records on that.

THE PRESIDENT: The percentages are then matters of what in English would be called establishment?

DR. GAWLIK: They are average figures, your Lordship. They may have altered slightly during the war.

THE PRESIDENT: Very well.

DR. GAWLIK: I beg to apologize, my Lord, but I did not remember the first figure which I mentioned before the recess. I based my statement on the Einsatzkommandos and that is how I arrived at my figures.

Pages 68 to 71 deal with the Einsatzkommandos in prisoner-of-war camps (Statement of Evidence VI-B of the English Trial Brief against the Gestapo and the SD). Pages 72 to 75 deal with the "Kugel" Decree (Statement of Evidence VI-C of the English Trial Brief against the Gestapo and the SD). Pages 76 up to 79 deal with concentration camps (Statement of Evidence VI-D of the English Trial Brief against the Gestapo and the SD). Pages 80 to 83 deal with deportation (Statement of Evidence VI-E of the Trial Brief against the Gestapo and the SD). Pages 84 to 89 deal with the Commando order (Statement of Evidence VI-F). Pages 90 to 93 deal with Nacht and Nebel Decree (Statement of Evidence VI-G of the Trial Brief). Pages 94 to 96 deal with Summary Proceedings (Statement of Evidence, VI-H). Pages 97 and 98 deal with responsibility of kinsfolk (Statement of Evidence VI-E). Pages 99 and 100 deal with the shooting of prisoners in the

Sipo and SD prisons in Radom (Statement of Evidence VI-J). Pages 101 and 102 deal with the employment of force in confiscations (Statement of Evidence VI-K). Pages 103 and 104 deal with Third Degree examination (Statement of Evidence VI-L of the Trial Brief), and I continue on Page 105, Section D, which deals with Crimes Against Humanity (Statement of Evidence VII of the English Trial Brief against the Gestapo and the SD).

THE PRESIDENT: Can you tell the Tribunal what, according to your contention, the SD did in the concentration camps?

DR. GAWLIK: The SD had nothing to do with concentration camps, my Lord. One must differentiate between two facts: Firstly, assignment to concentration camps by means of a protective custody order; the protective custody order was always issued by the Gestapo, the SD was not competent for that. Secondly, the administration of concentration camps: concentration camps were under the jurisdiction of the Economic and Administrative Main Office, Obergruppenfuehrer Pohl. This was an independent organization, which operated alongside the RSHA. Thus, if the Gestapo issued a protective custody order, then the detainee came under the jurisdiction of the Economic and Administrative Main Office. The Economic and Administrative Main Office was directly under Himmler, just as was the RSHA.

THE PRESIDENT: So that you say that the RSHA and Pohl's organization and the Einsatz groups were all three entirely separate organizations under Himmler? Is that right?

DR. GAWLIK: Yes.

THE PRESIDENT: What name was given to Pohl's organization?

DR. GAWLIK: Economic and Administrative Main Office. (Wirtschafts and Verwaltungshauptamt.)

THE PRESIDENT: Economic and what?

DR. GAWLIK: Economic and Administrative Main Office. The chain of command in the concentration camps, my Lord, was Himmler down to

Pohl, and then to the Commandants of the concentration camps.

THE PRESIDENT: And do you say that the Economic and Administrative Main Office employed no SS, or SD, or Gestapo, or Sipo?

DR. GAWLIK: SD men were not working in the Economic and Administrative Main Office, not from Amt III or Amt VI. As far as I am informed, there were a few Gestapo men -

THE PRESIDENT: Did any men with the SD on their arms work in concentration camps?

DR. GAWLIK: That I cannot say for certain, my Lord. I believe so; I cannot say.

THE PRESIDENT: You will recollect that there was a good deal of evidence which indicates that SD men were working in concentration camps; and the Tribunal would like to know what your explanation of that evidence is.

DR. GAWLIK: I can only recollect, my Lord, what the witness Milch said: as far as I can remember he said the following: The Commandant was an SD man; but that must be an error, because Amter III and VI had nothing to do with this. It may be that these men in the concentration camps belonged to the SS special formation of the SD, but I cannot answer that question with any certainty, your Lordship. I can only -

THE PRESIDENT: What was this special formation of the SS which was called SD?

DR. GAWLIK: They were all members of the RSHA, of all seven Amter of the RSHA, Amt I, Amt II, Amt III-the SD Inland, Amt IV-Gestapo, Amt V-Kripo, Amt VI-Intelligence Service, Foreign Branch (Auslandsnachrichtendienst) and Amt VII. These members who were members of the SS or candidates for membership in the SS were united under the SS formation SD, so that they did not need to do duty with the local units of the SS.

THE PRESIDENT: As far as I can understand what you say, you are saying that, in the branch of the RSHA, SS were called SD?

DR. GAWLIK: The members as far as they were members of the SS - for instance, if a Gestapo employee was a member of the SS - then he belonged to the SS special formation SD.

THE PRESIDENT: Go on, Dr. Gawlik.

DR. GAWLIK: Your Lordship, I should like to say the following with reference to this subject: It is something which refers to service abroad. In the eastern territories all members of the Security Police, even if they were not members of the SS wore this SS uniform with the SD badge.

And now I come to Crimes Against Humanity, persecution of Jews. (Statement of Evidence VII of the English Trial Brief against the Gestapo and SD.)

The prosecution of individuals for Crimes Against Humanity was unknown in International Law until now. It was merely admitted that if a State violated any principle of humanity, other States had the right to intervene. As an example, I mention the intervention of England, France and Russia against Turkey in 1827; against the Balkan States in 1878; and the intervention brought about by the atrocities committed in Armenia and Crete in 1891 and 1896.

This right to intervene in cases of Crimes Against Humanity was not generally recognized. Oppenheim, International Law, Vol. I, Pages 229-237, for instance, considers an intervention to end religious persecution and continued cruelty in war and peace in the interest of humanity as questionable. According to Oppenheim, it should be a rule that interventions in the interest of humanity be admissible; they must, however, be of a collective nature. In accordance with the general fundamental rule of International Law, that only the States are subject to International Law, this intervention is directed only against the State in which Crimes Against Humanity have been committed.

The Charter introduces an entirely new element by decreeing the prosecution of individuals for Crimes Against Humanity. That is probably why, according, to Paragraph 6-C of the Charter, persecution for political, racial or religious reasons is not in itself a crime. It is on the contrary necessary that this persecution be carried out in executing a crime or in connection with a crime for which this Tribunal is competent. It is therefore not sufficient if the prosecution alleges, on page 53 of the Trial Brief against the Gestapo and SD, that it had been one of the tasks of the SD to keep the Gestapo informed about the Jews. On the contrary, it is necessary to prove for what purpose this information was rendered.

The witnesses Wisliceny and Dr. Ehlich have been examined before the Commission on the work of the SD in Jewish affairs, Wisliceny declared that Amt III of the RSHA had no department for Jewish questions. From 1936 until 1939 there was in the SD in the Central Department II/1 a department for Jewish questions.

This department for Jewish questions allegedly did not have the purpose to prepare the extermination of the Jews.

DR. EHLICH furthermore testified that even in Amt. III, no department concerned itself with the Jewish question, and especially not Department III-B 3. As a result of the regulation defining the tasks of Amter III and IV, it had been determined that all Jewish questions were only to be dealt with by Amt. IV.

I refer further to Affidavits SD 27, SD 16, and SD 17. Schellenberg SD 61 and Dittel SD 63 have stated with regard to Amter VI and VII that even these offices had nothing to do with the persecution of the Jews.

Furthermore, there are 259 collective statements available from former SD members for the entire area of the Reich, and for the time from 1933 until 1945.

THE PRESIDENT: Have any of these affidavits to which you are referring been translated?

DR. GAWLIK: No, my Lord. Only the summary affidavit has been translated.

THE PRESIDENT: Well, some of your affidavits have been translated, have they not?

DR. GAWLIK: Some of them, my Lord, yes, but not those 259; they have not been translated, my Lord. They are contained in my summary, SD No. 70.

I shall omit the following two paragraphs which deal with the events of the 10th November, 1938, and I shall continue on Page 107.

The evidence has not shown that the SD Amter III and VI of the RSHA participated in the extermination of the millions of Jews. All Jewish affairs were dealt with by Amt IVm, Eichmann's section. Eichmann belonged to Amt IV and was the Head of Section IV B 4. This is shown by the organizational plans of the RSHA of 1st January, 1941, and 1st October, 1942, Document L-185 and Document L-219 submitted by the prosecution.

The chain of command for the mass murder of Jews was Hitler, Himmler, Muller and Eichmann. Not one of the witnesses has indicated that Amter III, VI and VII, or any of the local branches of these offices co-operated in the extermination of Jews. In this connection I refer in particular to the testimony of Wisliceny, Page 751 of the record of the Commission, according to which there was no connection between the department of Eichmann and the Amter III, VI and VII, and further, to the record of Dr. Hoffmann (German text of Commission record Page 1793). Hoffmann stated that Amt IV was competent for deportations and that Eichmann was responsible for the final solution of the Jewish question.

In the occupied territories, also, all Jewish affairs were handled by Amt IV, Eichmann Department. The initial IV J on Document RF 1210, submitted by the prosecution shows that a department of Amt IV dealt with the Jewish questions in France. This is confirmed by the testimony of the witness Knochen (Pages 475, 476, 1105, 1113 of the Commission Record),

and by the Laube Affidavit SD 54 which I submitted. They show that Hauptsturmfuehrer Dannecker, who was sent to France by Eichmann, also belonged to Amt IV and received his instructions directly from Eichmann himself. Thus, no connection existed between Amter III and VI and Eichmann's department.

Referring to Denmark and Holland, the witness Dr. Hoffmann testified that the deportation of Jews from these countries was carried out solely by the Eichmann agency. Moreover, on the 3rd January, 1946, Wisliceny made an extensive statement on this subject before the Tribunal, saying that the deportation of Jews in the Balkan countries was also carried out by the Eichmann Department.

The Trial has in no way established that the SD Amter III, VI or VII in any supported the Eichmann agency.

THE PRESIDENT: One moment. Then that is another organization which is directly responsible to Himmler, is it, the Eichmann Department? You gave us the RSHA, the Pohl organization, and another organization which I forget for the moment - oh, the Einsatzgruppen; that was three organizations which were entirely outside the SS or the SD or the SA, and now you have got another one. This is the Eichmann organization.

DR. GAWLIK: The legal position is not the same as in those three organizations which I cited. Eichmann was in Amt IV, but probably it would be better if my colleague, Dr. Merkel, were to answer that question. I do not want to encroach on the material of my colleague Merkel who represents the Gestapo. Eichmann had an office in Amt IV - the Gestapo.

THE PRESIDENT: Go on.

DR. GAWLIK: It is true, however, that Eichmann and a number of other persons who worked in his department in Amt IV were formerly employed in the SD.

In this connection, Wisliceny has testified before the Tribunal that these persons in part assigned to Amt IV, and in part transferred there. They

received their orders exclusively from Amt IV. The witness Hoffmann has declared that Eichmann was transferred from the SD to the Gestapo. (Record of the Commission, Page 14458.)

The fact that persons had worked in the SD before they worked in Eichmann's section is in no way sufficient to declare the SD a criminal organization. These persons were completely eliminated from the activity of the SD when they were taken over by Amt IV or when they were assigned to Amt IV.

The decisive question is whether the extermination of the Jews was one of the aims and duties of Amt III, VI, or VII. The fact alone that these people resigned their activity in the SD and were taken over into Amt IV proves incontestably that this activity was not among the aims and duties of the SD. Moreover, the majority of the members of Amt III, VI, and VII did not know that individual persons who had formerly been employed in the SD were now occupied in Amt IV with the final solution of the Jewish question.

I now come to the persecution of the Churches (Statement of Evidence VII-B of the Trial Brief).

The prosecution has asserted in this connection that the Gestapo and the SD had been the main departments for the persecution of the Churches; that the SD had pursued secret ends with deceptive manoeuvres against the Church; that the SD had collaborated with the Gestapo; that the SD had dealt with the opposition of the Church against the Nazi State; that the persecution of the Church had been one of the fundamental purposes of the SD.

I am of the opinion that these general allegations do not suffice to declare the SD as guilty of persecution of the Church, paragraph 6-C of the Charter does not speak of persecution of the Churches but of persecution for religious reasons.

The documents submitted by the prosecution which merely contain the general allegation that the Churches had been persecuted therefore do not suffice.

On the contrary, it should have been shown that this persecution was carried out for religious reasons.

The concept “persecution” will, moreover, need to be explained. Not every measure can be understood as “persecution” which was undertaken against members of denominations by the State. Here, rather, we have to start from the concept of human rights. The Charter does not define what is to be understood as violation of human rights from a religious viewpoint.

A number of writers on International Law, for instance, Bluntschli, Martens, Bonfils, and others, take this to be the right for existence; the right for protection of honour, of life, of health, of liberty, of property and of religious freedom.

THE PRESIDENT: Is it your contention that Germany had the right, outside the territory of the Reich, to treat the Church which existed there in any way they thought right. Take, for instance, in Russia; in the Soviet Union. Is it your contention that there Germany could treat the Church and the Church property in any way they thought right, if that is not in accordance with International Law?

DR. GAWLIK: You have to differentiate between conditions inside and conditions outside Germany. Outside Germany, the general principles of International Law applied. My statements deal with conditions in Germany. The SD has also been accused by the prosecution, in Document PS-1815, which is a document from Aachen, that it had persecuted the Churches inside Germany. In my opinion, you have to draw a distinct dividing line, and what I have been saying referred only to conditions inside Germany.

Only a violation of the right for religious reasons will therefore fall under this penal code.

The evidence on this point of the Indictment has established the following:

The witness Roessner has testified that since the existence of Amt III, no Church questions, but only general questions of the religious life, were dealt with in such a manner that the religious tendencies, wishes and preoccupations of all sections of the population were affected without judging their confessional adherence in the sense of a persecution of the Church, or causing or supporting police measures. The witness has also stated, in particular, that the SD carried on no sham proceedings in order to persecute the Church. The witness Dr. Best (a witness for the Gestapo) has testified that any police intervention in individual Church cases was the task of the Stapo. According to the statements of the witness Roessner, the decree of the 12th of November, 1941, which ordered that Amt IV should take over entirely all Church affairs from Amt III, was but the formal confirmation of an already existing state of affairs.

For the period before 1939, I refer to the affidavits of Fromm and particularly to SD 55 of Theo Gahrman. I draw your attention to the fact that the English Document Book H which deal with the persecution of the Churches contains no evidence against the SD. Documents D-75, 101, 145, 848-PS, 1164-PS, 1481-PS, and 1521-PS contained in this document book were purely police affairs.

THE PRESIDENT: Go on.

DR. GAWLIK: These statements refer to Document PS-1815. The principal document of the prosecution against the SD deals with the persecution of the Church.

I believe I have shown that a collective sentencing of all members of Amter III and VI, which is the intention of the prosecution, would not do justice to the tasks and activities of Amter III and VI.

If the Tribunal, however, should pass sentence on the SD despite my explanations, then the numbers of persons affected by this decision will

have to be strictly limited especially because of Law No. 10. The general designation “SD” should not suffice because of the various meanings of this word.

It will have to be clarified whether the decision affects:

1. Only members of Amter III and VI, which were not founded until September, 1939, or also members of Central Department II/I of the SD Main Office.

2. Only the full-time members or also the honorary members.

3. From the honorary members only the collaborators, or also the Vertrauensmänner (persons entrusted with special tasks).

4. From the Vertrauensmänner only the permanent employees, or also those who furnished occasional reports.

5. Also the technical personnel, secretaries, drivers, telephone operators, etc.

High Tribunal, your decision will be a milestone in the history of law, but it could also be a milestone in the history of humanity.

The striving of the people is towards peace. Influential politicians, as well as representatives of legal science agree that this wish of humanity can only be fulfilled by independent jurisdiction unbounded by State sovereignty.

James Brown Scott, the President of the American Institute for International Law, established in a speech delivered in the year 1926 that the history of mankind is but the history of the individual on a larger scale. In the history of the individual the right to take justice into one's own hands has given way to an arbitration by the parties concerned -

THE PRESIDENT: Go on.

DR. GAWLIK: - and from thence developed the juridical proceedings of nominating judges and the execution of their judgments.

Violence is violence; whether between armed men or entire peoples, who in the case of war have at their disposal the last resources of their

governments.

Today, the people, in their development, as compared with the development of the individual, are in a state of transit from the arbitration system to a regular juridical system. Nature repeats herself from day to day, from generation to generation, whether in individuals or in such groups of individuals which we call State or Nation. The International Arbitration System will be the basis for the regular juridical system of the United Nations, which is unbounded by State sovereignty, just as the regular juridical system has developed out of the arbitration system within the peoples.

We are at the dawn of this era in the history of peoples, an era which is the end of belligerent struggles and would thus fulfil the deep wish of all the peoples. The International Military Tribunal could fulfil this task in the World History.

THE PRESIDENT: Dr. Gawlik, I have before me the English translation of your speech, and on Page 113 of the speech there appears to be a reference in the paragraph which has arabic number 1, to the Chief Department of the SD. I would like to know for the benefit of the Tribunal, what you mean by the Chief Department of the SD. Do your pages correspond?

DR. GAWLIK: Yes, my Lord. The SD Main Department existed until 1939. It had the following departments: II-1-(Roman two, Arabic one) "Gegnerforschung" (Enemy Investigation) and when the RSHA was founded, that department was transferred to the Gestapo.

THE PRESIDENT: The Main Department of the SD was transferred to the Gestapo?

DR. GAWLIK: No, not the entire Main Department, my Lord. Until 1939 there was a Main SD Department and in September, 1939, the RSHA was founded. The RSHA has only existed since September, 1939. Before that there was the Main SD Department, which had various sub-

departments; and one department of the SD Main Office was transferred to the Gestapo when the RSHA was founded. That department was called II/1.

THE PRESIDENT: Did the Main Department of the SD cease to exist in September, 1939?

DR. GAWLIK: Yes, then it ceased to exist. And Department II-2 then became Amt III of the RSHA.

THE PRESIDENT: You are saying, are you not, that II-1, which was a branch of the Main Department of the SD, was transferred to the RSHA and became II in the RSHA or Amt II in the RSHA?

DR. GAWLIK: No, my Lord, Department II-1 came into Amt IV of the RSHA, that is, the Gestapo. Department II-2 became Amt III in the RSHA.

THE PRESIDENT: At any rate, the SD Main Department ceased to exist, and all passed into the various Amts of the RSHA?

DR. GAWLIK: Yes.

THE PRESIDENT: Yes.

DR. GAWLIK: We are at the dawn of this era in the history of peoples, an era which is the end of belligerent struggles, and would fulfil the deep wish of all the peoples. The International Military Tribunal could fulfil this task in the history of the world if by its decision it were to indicate that it intends to be the Court above all nations, which is the aim of politicians and of representatives of legal science. The collective condemnation of the members of the organizations, however, is not the way to fulfil this aim, because this would punish the innocent as well. This Tribunal can only be built up on the principle: no punishment without the establishment of the guilt of the individual.

Concluding Speech from the Prosecution

THURSDAY, 29TH AUGUST, 1946

SIR DAVID MAXWELL FYFE: I do not conceive it to be necessary to deal at any length with the evidence against the SS. You are already too well aware of the character of this organization and of the activities of its members. The letters SS appear in connection with almost every one of the crimes, great and small, of which you have now heard daily over the course of almost 10 months. It may all be summarized, even if understated, in the words of their leader Himmler, I quote:

“I know there are some people in Germany who become sick when they see these black coats. We understand the reason and do not expect that we shall be loved by too many” (1851-PS, USA-440).

I would therefore address you only upon one or two particular points that have arisen and to which the Prosecution attach particular importance.

DEVELOPMENT OF SS

The history of the development of the SS may be stated in a few words. Created originally as an elite bodyguard for the protection of Hitler himself, together with the SA it formed a private Nazi army and the basis of what was to become the vital instrument in the conspiracy to wage aggressive war. Its value as a thoroughly reliable “instrument of the Fuehrer” was demonstrated in June 1934 when it performed the function of executioner in the blood purge which accompanied the murder of the SA Leader Roehm. I quote:

“It appalled everyone,” said Himmler later, “and yet everyone was certain that he would do it again if such orders were issued and if it were necessary” (1919-PS, USA-170).

The willingness of the SS to do it again was to be exemplified a millionfold in the ensuing years.

Until January 1933 the SS consisted of a single unit. There were no special branches, and, apart from their common role with the SA and their special position as Hitler’s bodyguard, they had no other particular tasks. After the Nazi Party had come to power, however, and particularly after 1934, its members increased and its organization expanded and became more complex. New units were created, such as the SS Totenkopfverbaende, the task of which was, and continued to be, the guarding of concentration camps. A few selected units were given arms and in effect became Himmler’s private army, known as the SS Verfuegungstruppe. At the same time certain functions became the speciality of other groups which, while not having a separate organizational status, came to be designated as separate branches, for instance, the SD, who were the intelligence service of the SS and who were later to work in such close co-operation with the Gestapo.

Although it became customary to distinguish between the several branches and formations of the SS by name, in terms of administration and command they were parts of the one SS, all under the command of the Reichsfuehrer SS and all administered and controlled through the various main offices of the SS Supreme Command.

At the outbreak of war the majority of the Allgemeine SS, the great mass of the SS membership which had remained unarmed, were drafted into the Wehrmacht. New recruits were enrolled in the Verfuegungstruppe, which was expanded to form the, fighting divisions of the SS and it was these fighting divisions which in about 1940 came to be known as the Waffen-SS.

The Tribunal has seen from the report of the SS Statistical Institute how the SS had developed by 30 June 1944. By then it had a total membership of 794,941. The Allgemeine SS - the original nucleus of the SS - had declined in importance during the war because more than half of its 200,000 members had been called up, to the Wehrmacht, the Labor Service, or other special Nazi agencies. The remaining 594,000 belonged to the Waffen-SS. The Tribunal has seen how 368,000 of the Waffen-SS were in field units. About 160,000 were in reinforcement, training, and reserve units; 26,544 were in other units and offices directly subordinate to the Operational Headquarters of the SS High Command; 39,415 were in the SS Main Offices.

It is particularly significant to see how these 39,415 men of the Waffen-SS were distributed. The Tribunal will see that there I attached a total. Witnesses have told you that the Waffen-SS had nothing to do with the concentration camps. But no less than 24,000 of them were in the WVHA, the offices which organized and were responsible for the administration and personnel of the concentration camps. That 24,000 did not include the Totenkopf SS which provided the guards. Waffen-SS men also provided the manpower of the various Nazi genocide organizations operating, within and on behalf of the SS, the Race and Settlement Main Office, the Office of the Reichskommissar for the Consolidation of German Folkdom, the central office for persons of German race, the personal staff of Himmler, including Sievers' infamous Ahnenerbe.

WAFFEN SS AS PART OF THE SS WHOLE

It is said of the Waffen-SS that it was in effect a purely military organization the character of which was no different from any unit of the Wehrmacht. On the evidence this is not so. It is true that the Waffen-SS was the combat arm of the SS. But, although its fighting formations came under the command of the Army for operational purposes, they always remained an integral part of the SS.

Indeed, the Hitler order regarding the function of the SS on mobilization provided that if placed under the command of the Army it, I quote: “remains a unit of the NSDAP politically.” Recruiting, training, promotions, administrations, and supply of the Waffen-SS throughout the war remained the function of the Supreme Command of the SS. It was recruited through the SS Main Office. It was organized, administered, and supplied through the SS Operational Office, which was the seat of its Command Headquarters.

Members of the Waffen-SS were subject to jurisdiction by the SS Main Legal Office. Like all other formations of the SS, the Waffen-SS was subject to Himmler’s jurisdiction as Reichsfuehrer SS. It was in theory and in practice as much an integral part of the SS organization as any other branch of the SS. You will remember the evidence that Von Rundstedt gave, I quote:

“The troop units of the SS were subordinate only to Himmler. I had no disciplinary power nor judicial power over them. I could not give them leaves or issue awards. I was responsible only for the technical employment of these divisions, much as I might use a Yugoslav or Hungarian division.”

These then were the broad outlines of the SS, this all-powerful “state within the state,” as General Detzel called it. The Defense now seeks to divide this all-embracing unity of the SS into various totally separate components united only in the person of Himmler. He and three or four of his subordinates are alone made responsible for the millionfold crimes that were committed. But this contention violates both truth and sense. We are dealing in this Trial not with the murder of 10 men here or 20 there. In this Indictment is charged not only the murder of millions but a demonic plan of genocide, of the planned murder of whole nations, peoples, and races. The SS was the chosen instrument for this plan which “out-Heroded Herod.” This plan could only be executed by the use of the whole of the SS, of every branch of the SS working in unison and in co-operation with each other.

The evidence given in this Trial has shown that the crimes of the Nazi conspirators could not have been executed in an improvised way by sporadic criminal acts. They were carefully planned, prepared, and put into action through the SS and other criminal organizations. The men of the SS were particularly qualified for this plan of crime. Physically trained and selected, they were politically indoctrinated in Nazism and were committed to blind obedience to the commands of Hitler and Himmler and the rest of the Nazi leaders. "Orders must be sacred," said Himmler. Not only was membership voluntary during the first 16 years of the existence of the SS from 1925 on, it was subject to most careful selection in an endeavor to produce what the SS called a "male racial elite," a "super-stratum," a "band of definitely Nordic German men." SS men had to be fanatical Nazis of "Aryan" descent.

VOLUNTARY MEMBERSHIP

Much emphasis has been made by the Defense that during the course of the war the voluntary basis of the recruitment was replaced by compulsory drafting. The witness Brill gave evidence that "at the end of the war there were more draftees in the Waffen-SS than volunteers."

It may be helpful to the Tribunal if I very shortly discuss the evidence of that witness. While it is not questioned that at some stage during the war considerable numbers of men were arbitrarily drafted into the Waffen-SS, the date when this practice commenced and the extent to which it was carried, as they have been given by the witness Broil, are both challenged.

He told you that the first 36,000 were conscripted between the autumn of 1939 and the spring of 1940. To say that the 36,000 were compulsorily drafted into the SS is deliberately misleading. When he was cross-examined before the Commissioner upon a similar statement he admitted that those 36,000 were already members of the Allgemeine SS which they had voluntarily joined. They were not conscripted: they were simply posted from one part of the SS to another. Figures of the subsequent conscripts

which he gave were as follows: During 1942, 30,000; during 1943, 100,000; and during 1944, 210,000, making a total of 340,000. Even on these figures he is far short of justifying his statement that by the end of the war there were more conscripts than volunteers. He gave the grand total of the Waffen-SS as 910,000—a figure which included its strength in 1940 and all subsequent reinforcements, both voluntary and compulsory; 340,000 amounts to only just over one-third of that total.

On the question of the date at which recruits were first conscripted into the SS there is considerable evidence to refute this witness. In February 1940 Hess was instructing the Party offices to assist in the voluntary recruitment for the SS. In the decrees which he issued there was no suggestion of compulsory drafting. In April 1942 a recruiting pamphlet was emphasizing the voluntary basis of the Waffen-SS in these words, I quote:

“Every youth in the National Socialist Reich knows that he must himself initiate proceedings in order to complete his military service in the Waffen-SS. That so many young Germans have volunteered for the Waffen-SS is a living testimonial of the confidence of today’s young generation in the Waffen-SS, its spirit, and above all, its leadership” (3429-PS, USA-446).

The Soldier’s Friend, a pocket diary for the German Armed Forces published in 1943, the year in which Brill would have you believe that 100,000 men were conscripted without choice, was describing the members of the SS as hopeful young men who had “voluntarily decided to join the ranks of the Waffen-SS.” It stated, I quote:

“Everyone has acquainted himself with the comprehensive manual for the Waffen-SS. The principal points are as follows:

“1. Service in the Waffen-SS counts as military service. Only volunteers are accepted” (2825-P9, USA-441).

In April of the same year Himmler was directing the Defendant Kaltenbrunner on the admission of Sipo officials into the SS:

“I wish to make it clear again,”—he said—“I want an admission only if the following conditions are fulfilled:

“1. If the man applies freely and voluntarily” (2768-PS, USA-447).

And the Organization Book for 1943 explains that the Waffen-SS, by admitting volunteers for the duration of the war, makes it possible for these volunteers to fight in the battle for the evolution of the National Socialist idea. I am entitled also to make this comment upon Brill’s evidence. You will remember that I have already referred you to the statements which this witness made upon the activities of the SS Division Leibstandarte which must, in my respectful submission, be regarded as perjured testimony. In view of the suspect nature of his evidence and of the evidence there is to contradict it, it is my submission that whatever may have been the extent of compulsory service in the SS it was very much less and came into being at a very much later date than he contends.

But whatever the truth of this matter may be, it is our submission that the fact that a number of men were compulsorily enrolled ought not and cannot afford this organization a defense. The instances of crime committed by the SS during the war are so widespread, so constant, and so vast that you are compelled to infer that the vast majority of its members, whether in the first place they joined voluntarily or otherwise, readily accepted the tradition of the SS and themselves became willing parties to its criminal activities. May I consider in outline only some of the evidence upon which that conclusion must be drawn.

EFFECT OF SS TRAINING

You know already the form of education and training that the SS man received—a training for “the racial struggle” which Himmler commanded them to prosecute “without mercy.” Racial theories, geopolitics, eugenics—that was their curriculum. Mein Kampf was their Bible. Their basic philosophy was expressed by Himmler:

“It must be a matter of course that the most copious breeding should be from this racial super-stratum of the Germanic people. In 20 to 30 years we must really be able to present the whole of Europe with its leading class. If the SS, together with the farmers ... then run the colony in the East on a grand scale without any restraint, without any question about any kind of tradition, but with nerve and revolutionary impetus, we shall in 20 years push the national boundary 500 kms eastwards” (1919-PS, USA-170).

The propagation of ideas like these could only have accustomed SS men to the conception of a world in which the destruction, enslavement, and degradation of “inferior” peoples were regarded as an honorable duty. Pangs of conscience did not and could not trouble these men. The Tribunal will remember the words of Von dem Bach-Zelewski when he was asked whether the murder of 90,000 Jews by one small Einsatz group (to which, incidentally, the Waffen-SS provided most of the killers) was in keeping with Nazi philosophy. He said:

“I am of the opinion that when, for years, for decades, the doctrine is preached that the Slav race is an inferior race and Jews not even human, then such an outcome is inevitable.”

Not only were SS generals like Von dem Bach-Zelewski and Ohlendorf themselves infected by this poison. It is our submission that it did—and must have—poisoned the ordinary SS man who did the killing. Their extermination of Jews was regarded as, I quote:

“A page of honor in our history.”

Honor! Cold-blooded mass murder regarded as honor! Do we need further evidence to prove the type of man this filthy education bred? Long before they had enrolled themselves in the SS their members had been saturated with racial hatred and Fuehrer worship. SS training was only a more advanced course. When they joined the SS, to whatever part they went they saw the practical application of all that they had learnt before. Everywhere,

in every office, in every unit, murder was the trade. And wherever murder was to be done it was the members of the SS that were enrolled to do it.

WIDESPREAD NATURE AND EXTENT OF SS CRIMES

The Ahnenerbe was a department of the SS. Its list of members included the names of over one hundred professors and other educated men—all SS members, who relied upon the murderous business of hundreds of other SS members to supply them with the bodies for their experiments and the specimens for their collections—bodies of commissars who were to be taken alive and then decapitated, care being taken that, I quote: “the head should not be damaged.”

Professor Hirt wrote:

“By procuring the skulls of the Jewish-Bolshevik commissars, who represent the prototype of the repulsive but characteristic sub-human, we have the chance now to obtain a scientific document” (085, GB-574).

The Office for the Consolidation of German Folkdom was an office of the SS, the office responsible for the awful crime of genocide and all that it entailed. The RSHA and the WVHA, controlling and responsible for the concentration camps, were manned by SS. The crimes of the SS in the concentration camps need no further mention except to emphasize that the inquiries instituted by the SS judicial system, of which the witness Morgen gave evidence, were not inquiries into mass murder but into cases of corruption by SS officials. That witness is another whom I have already suggested to be unworthy of belief. How can the story of an investigation by an SS judge into the murders by Hoess at Auschwitz, which were interrupted by the advance of the Allies, be taken seriously? What further investigation could have been needed when Morgen himself knew all the details of the Auschwitz killings some time in 1943 or 1944? Do you doubt that had the Allies lost the war Hoess would still be committing mass murder in that concentration camp and that SS judges would still be investigating corruption and isolated crimes?

The Einsatzkommandos were primarily SS. They show ‘in miniature the co-operation between the various branches of Himmler’s system and the unity of the SS. Action Group “A” was composed as follows: Waffen-SS 34.4 percent; SD 3.5 percent; Criminal Police 4.1 percent; Gestapo 9.0 percent; Auxiliary Police 8.8 percent; other Police 13.4 percent.

The system of exterminating Jewry was handled by SS. The Warsaw ghetto is but one example. The deportation, murder, and robbery of the Poles and other peoples occupying territory which was required for German settlement was undertaken by SS. You will remember the Globocznik report, the action in which thousands of Poles were removed from their homes and 178 million Reichsmark acquired for the WVHA and which, in the words of Globocznik himself, was, I quote:

“...carried out by order”—of the Reichsfuehrer SS—”and only the decency and honesty as well as the surveillance of the SS men used for this purpose could guarantee a complete delivery” (4024-PS, GB-550). One is surprised that he did not add “pecunia non olet.”

The Waffen-SS came to be the spearhead of Nazi wars of aggression, particularly in the invasion of the Soviet Union, and exemplified the tyranny and slaughter which were inherent in Nazi domination. I quote:

“We will never let that excellent weapon, the dread terrible reputation which preceded us in the battles of Kharkov, fade, but will constantly add new meaning to it.”

So said Himmler to the officers of three SS divisions in Kharkov in 1943 (1919-PS, USA-170).

The Waffen-SS succeeded in constantly adding new meaning to its reputation for terror. Numerous instances have been submitted to the Tribunal of the commission of war crimes and crimes against humanity by units of the Waffen-SS. They are fresh in the Tribunal’s mind and I will not recapitulate them. I would only remind the Tribunal that some of the worst

atrocities took place in 1943 and 1944, at which time a proportion of the Waffen-SS were conscripts.

HIMMLER'S SPEECHES

How can it be contended that the members of the SS, and particularly of the Waffen-SS, were merely soldiers—soldiers who had no knowledge and took no part in these crimes? How can it be said that it was not they whose aims were criminal? Wherever we find Nazi crimes being committed we find also SS men involved. Always it is said that these SS men were something special, members of the SD or some other particular branch, members of the SS who had been drafted away to serve with special units such as the Einsatzkommandos, members of the SS who were not really SS men at all, but doctors or Police. Can this be really so? Let us ignore the evidence of the concentration camps, of the Einsatzkommandos, of the vast and brutal crimes against the populations of their invaded territories, of the mass exterminations of Jews throughout half the countries of Europe, of the legion instances of individual crime and sadism, of the legion other instances of murder in battle, and of every other breach of the laws of warfare. Let us ignore the evidence of all these crimes, although each one of them was committed by different SS men in different towns and villages throughout the length and breadth of the Greater Reich. Let us ignore them although they did not constitute one sudden wave of crime but were being done day after day over the years. Let us ignore the fact that in almost no instance of crime of which we have heard were any other than SS men involved. Let us ignore all this if you wish. Without it the criminality of the SS, from the highest to the lowest, is established by the records which we have of those three speeches that Himmler made to the officers of his SS units.

In April of 1941 he was talking to all of the officers of the SS Division Leibstandarte. In October 1943 he was addressing his major generals at Posen. In the same month the commanding officers of every regiment in

three of his SS divisions were listening to what he said at Kharkov. Those speeches have been quoted to you again and again and you know the sentiments that were expressed and the subject-matter that they covered. Will you try to imagine a general from your own countries talking to all the officers of one of your own divisions of hauling into slavery “thousands, tens of thousands, hundreds of thousands” of people; of shooting “thousands of leading Poles”? Will you try to imagine a British or an American or a Soviet or a French army commander telling his major generals: “What happens to a Russian, to a Czech, does not interest me in the slightest.... Whether 10,000 Russian females fall down from exhaustion while digging an anti-tank ditch interests me only insofar as the anti-tank ditch for Germany is finished” (1919-PS, USA-170, Page 23).

Or saying this:

“I also want to talk to you, quite frankly, on a very grave matter.... I mean the clearing out of the Jews, the extermination of the Jewish race. It is one of those things it is easy to talk about—’The Jewish race is being exterminated,’ says every Party member, ‘that is quite clear, it is our program, elimination of the Jews, and we are doing it, exterminating them.’ And then they come, 80 million worthy Germans, and each one has his decent Jew. Of course the others are vermin, but this one is an ‘A 1’ Jew. Not one of all those who talk this way has witnessed it, not one of them has been through it. Most of you must know what it means when 100 corpses are lying side by side, or 500, or 1,000. To have stuck it out and at the same time - apart from exceptions caused by human weakness - to have remained decent fellows, that is what makes us hard” (1919-PS, USA-170, Page 65). Can you see him telling all the commanding officers of one of his divisions: “Anti-Semitism. is exactly the same as delousing. Getting rid of lice is not a question of ideology, it is a matter of cleanliness. In just the same way anti-Semitism for us has not been a question of ideology but a matter of cleanliness” (1919-PS, USA-170).

If you can imagine so much, can you imagine what you would say of the officers and of the men that they commanded? Is it possible that officers and men in these Waffen-SS divisions who could be spoken to in such a way were high-minded, clean-living, decent, and honorable soldiers? Such men, be they from Germany or from any other country in the world, would not tolerate these words. Those speeches have become hackneyed enough during the course of this Trial, but they never lose their significance. They show that every member of those SS units was a prototype of his SS Fuehrer. If it were not so the Defendant Goering could not have said, after telling Mussolini the horrors of Germany's methods in fighting the partisans, I quote:

“Members of the Party discharge this task much more harshly and efficiently.... The SS, the guard of the old fighters of the Party, who have personal ties with the Fuehrer and who form a special elite, confirm this principle” (729, GB-281).

If it were not so the Defendant Hess could not have written:

“The units of the Waffen-SS ... are more suitable than other armed units for the specific tasks to be solved in the Occupied Eastern Territories due to their intensive National Socialist training in regard to questions of race and nationality” (3245-PS, GB-267, Page 354).

We know what Hitler had in mind as the future role of the Waffen-SS State Police: to impose German authority in the conquered countries; State Police who would never fraternize with the proletariat and underworld. That was their destined role which all the Army knew because, by order of, the OKW, it had received the “greatest publicity.” We know enough of the Nazi State Police, of the education and training of the Waffen-SS and the practical application of that training during these years of war to fit them for the task that lay ahead of them, to know also the sort of methods which they would have employed. It is those men, the men who were intended and had been

trained to police and terrorize Europe, who compose the organization of the SS which we ask you to convict as criminal.

COMMON AIMS OF SS, SA AND CORPS OF POLITICAL LEADERS

Such are the main considerations in connection with these three organizations, the Corps of Political Leaders, the SA and the SS to which I desire to draw your attention. It was these organizations which provided the machinery by which the crimes that these defendants conceived were executed. These three organizations were not separate and distinct from each other, as their counsel have attempted to portray them. It was their members who together constituted—and still do—the fundamental and dangerous core of National Socialism. As the separate branches of the National Socialist elite their aims and purposes were the same and they worked and co-operated with each other using the same methods which were criminal for all to see. From the outset this was so and continued so until the end. Nothing more clearly demonstrates these things than the evidence of how the National Socialist Party and Government debased the concepts of law and order and corrupted the judicial practice of their courts in order to protect themselves and their followers in the criminal courses they were pursuing.

Hardly had the Nazi Government come to power when the Nazi ministers, Nazi police, and Nazi judiciary were condoning violence and murder committed by the SA and the SS and the Gestapo. And for what reasons—reasons which must have demonstrated to all Germany, and must demonstrate to all the world today, the very rottenness of National Socialism:

“As the deed did not originate from ignoble motive”—I quote—”but rather served the achievement of an exceedingly patriotic aim and the advance of the National Socialist State, the quashing of the proceedings ... does not

seem incompatible with the orderly administration of criminal justice” (D-923, GB-615).

Such was the opinion of the Public Prosecutor to the Provincial Court in Nuremberg in respect of the SA men who had beaten a Communist to death—beaten him until the soles of his feet were so swollen, I quote:

“...owing to the mass of blood gathered there, that after the blood had been drained off by incision, pockets nearly the size of a fist were formed (D-923, GB-615).

In Munich the State Minister of the Interior was giving similar reasons for quashing proceedings against SS guards in Dachau who had beaten a prisoner on the head until he died, I quote again:

“As a reason it is pointed out that the conducting of investigations would cause great harm to the prestige of the National Socialist State, since these proceedings would be directed against members of the SA and SS, and thus the SA and SS as the chief protagonists of the National Socialist State would be immediately affected” (D-926, GB-568).

Nazi judges were suspending proceedings against members of the SA in agreement with the supreme leadership of that organization. I quote again:

“The deed and intention of the SA men were only aimed at the wellbeing of the National Socialist movement. Political reason and the purity of intentions is thus beyond doubt” (D-936, GB-616).

When judges not yet accustomed to these new conceptions of law did convict SA guards who, I quote, “not only attempted to wring confessions from inmates but acted in a sheer lust for torture,” they were at once expelled from the Party; the prosecutor who happened himself to be a member of the SA was warned that he should resign and the Gauleiter wrote to the Supreme Court advising that a pardon should be substituted for the sentence that had been imposed.

Can there be any doubt that candidates for membership of these organizations did not know that membership afforded the license to

murder?

Nor were these concepts of law confined to the State and Party courts; the military could not resist anything so attractive. By 1939 a military judge was granting to an SS man extenuating circumstances, I quote:

“... because he was induced to participate in the shooting by a corporal handing him a rifle. He was in a state of irritation owing to numerous atrocities committed by Poles against persons of German race. As an SS man particularly sensitive to the sight of Jews and to the hostile attitude of Jewry to the Germans, he therefore acted quite thoughtlessly in youthful rashness” (D-421, GB-567).

Those SS soldiers had been sentenced to imprisonment for “manslaughter” which the army commander refused to confirm. It was for “manslaughter” of a kind known only to National Socialists who, as we have seen in this Court, display a curious sensitiveness to the word “murder.” This they called manslaughter:

“After about 50 Jews, who had been used during the day to repair a bridge, had finished their work in the evening, these two men drove them into a synagogue and shot them all without reason” (D-421, GB-567).

Let me conclude by reminding you of the opinion of the Supreme Court, the supreme guardian of National Socialist honor and discipline, to whose august authority and jurisdiction the members of all these organizations were subject. Of the murders committed during the 1938 demonstrations by Hoheitstraeger and members of the SA and SS, the investigation of which had been entrusted to the Secret State Police and Party jurisdiction of Gauleiter and other Political Leaders, it was pleaded that, I quote, “in such case’s as when Jews were killed without an order or contrary to orders, ignoble motives could not be determined.” The purpose of those proceedings in the Party Court were, I quote again, “to protect those Party comrades who, motivated by decent National Socialist attitude and initiative, had overshot their mark” (3036-PS, USA-332).

In those few lines you have the secret of all the death and suffering, the horror and tragedy, that these defendants and the members of these organizations have brought upon the world. You see to what depths of evil they corrupted the human conscience. No ignoble motive! The murder of women and children - the “decent National Socialist attitude and initiative!” Such was the National Socialist creed which the members of these organizations fanatically accepted, the creed which - can one doubt? - they still cherish and, given the opportunity to do so, would revive.

The Judgment

STRUCTURE AND COMPONENT PARTS

The Prosecution has named Die Schutzstaffeln der Nationalsozialistischen Deutschen Arbeiterpartei (commonly known as the SS) as an organisation which should be declared criminal. The portion of the Indictment dealing with the SS also includes Der Sicherheitsdienst des Reichsfuehrer-SS (commonly known as the SD). This latter organisation, which was originally an intelligence branch of the SS, later became an important part of the organisation of Security Police and SD and is dealt with in the Tribunal's Judgment on the Gestapo.

The SS was originally established by Hitler in 1925 as an elite section of the SA for political purposes under the pretext of protecting speakers at public meetings of the Nazi Party. After the Nazis had obtained power the SS was used to maintain order and control audiences at mass demonstrations and was given the additional duty of "internal security" by a decree of the Fuehrer. The SS played an important role at the time of the Roehm purge of 30th June, 1934, and, as a reward for its services, was made an independent unit of the Nazi Party shortly thereafter.

In 1929, when Himmler was first appointed as Reichs Fuehrer the SS consisted of 280 men who were regarded as especially trustworthy. In 1933, it was composed of 52,000 men drawn from all walks of life. The original formation of the SS was the Allgemeine SS, which by 1939 had grown to a corps of 240,000 men, organized on military lines into divisions and regiments. During the war its strength declined to well under 40,000.

The SS originally contained two other formations, the SS Verfuegungstruppe, a force consisting of SS members who volunteered for four years' armed service in lieu of compulsory service with the Army, and

the SS Totenkopf Verbaende, special troops employed to guard concentration camps, which came under the control of the SS in 1934. The SS Verfuegungstruppe was organized as an armed unit to be employed with the Army in the event of mobilization. In the summer of 1939, the Verfuegungstruppe was equipped as a motorized division to form the nucleus of the forces which came to be known in 1940 as the Waffen SS. In that year the Waffen SS comprised 100,000 men, 56,000 coming from the Verfuegungstruppe and the rest from the Allgemeine SS and the Totenkopf Verbaende. At the end of the war it is estimated to have consisted of about 580,000 men and 40 divisions. The Waffen SS was under the tactical command of the Army, but was equipped and supplied through the administrative branches of the SS and under SS disciplinary control.

The SS Central Organisation had 12 main offices. The most important of these were the RSHA, which has already been discussed, the WVHA or Economic Administration Main Office which administered concentration camps along with its other duties, a Race and Settlement Office together with auxiliary offices for repatriation of racial Germans (Volksdeutschemittelstelle). The SS Central Organisation also had a legal office and the SS possessed its own legal system; and its personnel were under the jurisdiction of special courts. Also attached to the SS main offices was a research foundation known as the Experiments Ahnenerbe. The scientists attached to this organisation are stated to have been mainly honorary members of the SS. During the war an institute for military scientific research became attached to the Ahnenerbe which conducted extensive experiments involving the use of living human beings. An employee of this institute was a certain Dr. Rascher, who conducted these experiments with the full knowledge of the Ahnenerbe, which were subsidized and under the patronage of the Reichsfuehrer SS who was a trustee of the foundation.

Beginning in 1933 there was a gradual but thorough amalgamation of the police and SS. In 1936 Himmler, the Reichsfuehrer SS, became Chief of the German Police with authority over the regular uniformed police as well as the Security Police. Himmler established a system under which Higher SS and Police Leaders, appointed for each Wehrkreis, served as his personal representatives in coordinating the activities of the Order Police, Security Police and SD and Allgemeine SS within their jurisdictions. In 1939 the SS and police systems were coordinated by taking into the SS all officials of the Security and Order Police, at SS ranks equivalent to their rank in the police.

Until 1940 the SS was an entirely voluntary organisation. After the formation of the Waffen SS in 1940 there was a gradually increasing number of conscripts into the Waffen SS. It appears that about a third of the total number of people joining the Waffen SS were conscripts, that the proportion of conscripts was higher at the end of the war than at the beginning, but that there continued to be a high proportion of volunteers until the end of the war.

CRIMINAL ACTIVITIES

SS units were active participants in the steps leading up to aggressive war. The Verfuegungstruppe was used in the occupation of the Sudetenland, of Bohemia and Moravia, and of Memel. The Henlein Free Corps was under the jurisdiction of the Reichsfuehrer SS for operations in the Sudetenland in 1938, and the Volksdeutschemittelstelle financed fifth-column activities there.

The SS was even a more general participant in the commission of war crimes and crimes against humanity. Through its control over the organisation of the Police, particularly the Security Police and SD, the SS was involved in all the crimes which have been outlined in the section of this Judgment dealing with the Gestapo and SD. Other branches of the SS were equally involved in these criminal programs. There is evidence that

the shooting of unarmed prisoners of war was the general practice in some Waffen SS divisions. On 1st October, 1944, the custody of prisoners of war and interned persons was transferred to Himmler, who in turn transferred prisoner-of-war affairs to SS Obergruppenfuehrer Berger and to SS Obergruppenfuehrer Pohl. The Race and Settlement Office of the SS together with the Volksdeutschemittelstelle were active in carrying out schemes for Germanization of occupied territories according to the racial principles of the Nazi Party and were involved in the deportation of Jews and other foreign nationals. Units of the Waffen SS and Einsatzgruppen operating directly under the SS main office were used to carry out these plans. These units were also involved in the widespread murder and ill-treatment of the civilian population of occupied territories. Under the guise of combatting partisan units, units of the SS exterminated Jews and people deemed politically undesirable by the SS, and their reports record the execution of enormous numbers of persons. Waffen SS divisions were responsible for many massacres and atrocities in occupied territories such as the massacres at Oradour and Lidice.

From 1934 onwards the SS was responsible for the guarding and administration of concentration camps. The evidence leaves no doubt that the consistently brutal treatment of the inmates of concentration camps was carried out as a result of the general policy of the SS, which was that the inmates were racial inferiors to be treated only with contempt. There is evidence that where manpower considerations permitted, Himmler wanted to rotate guard battalions so that all members of the SS would be instructed as to the proper attitude to take to inferior races. After 1942 when the concentration camps were placed under the control of the WVHA they were used as a source of slave labor. An agreement made with the Ministry of Justice on 18th September, 1942, provided that antisocial elements who had finished prison sentences were to be delivered to the SS to be worked to death. Steps were continually taken, involving the use of the Security Police

and SD and even the Waffen SS, to insure that the SS had an adequate supply of concentration camp labor for its projects. In connection with the administration of the concentration camps, the SS embarked on a series of experiments on human beings which were performed on prisoners of war or concentration camp inmates. These experiments included freezing to death, and killing by poison bullets. The SS was able to obtain an allocation of Government funds for this kind of research on the grounds that they had access to human material not available to other agencies.

The SS played a particularly significant role in the persecution of the Jews. The SS was directly involved in the demonstrations of 10th November, 1938. The evacuation of the Jews from occupied territories was carried out under the directions of the SS with the assistance of SS Police units. The extermination of the Jews was carried out under the direction of the SS Central Organisations. It was actually put into effect by SS formations. The Einsatzgruppen engaged in wholesale massacres of the Jews. SS Police units were also involved. For example, the massacre of Jews in the Warsaw ghetto was carried out under the directions of SS Brigadefuehrer and Major General of the Police Stroop. A special group from the SS Central Organisation arranged for the deportation of Jews from various Axis satellites and their extermination was carried out in the concentration camps run by the WVHA.

It is impossible to single out any one portion of the SS which was not involved in these criminal activities. The Allgemeine SS was an active participant in the persecution of the Jews and was used as a source of concentration camp guards. Units of the Waffen SS were directly involved in the killing of prisoners of war and the atrocities in occupied countries. It supplied personnel for the Einsatzgruppen, and had command over the concentration camp guards after its absorption of the Totenkopf SS, which originally controlled the system. Various SS Police units were also widely used in the atrocities in occupied countries and the extermination of the

Jews there. The SS Central Organisation supervised the activities of these various formations and was responsible for such special projects as the human experiments and “final solution” of the Jewish question.

The Tribunal finds that knowledge of these criminal activities was sufficiently general to justify declaring that the SS was a criminal organisation to the extent hereinafter described. It does appear that an attempt was made to keep secret some phases of its activities, but its criminal programs were so widespread, and involved slaughter on such a gigantic scale, that its criminal activities must have been widely known. It must be recognized, moreover that the criminal activities of the SS followed quite logically from the principles on which it was organized. Every effort had been made to make the SS a highly disciplined organisation composed of the elite of National Socialism. Himmler had stated that there were people in Germany “who become sick when they see these black coats” and that he did not expect that “they should be loved by too many.” Himmler also indicated his view that the SS was concerned with perpetuating the elite racial stock with the object of making Europe a Germanic continent and the SS was instructed that it was designed to assist the Nazi Government in the ultimate domination of Europe and the elimination of all inferior races. This mystic and fanatical belief in the superiority of the Nordic German developed into the studied contempt and even hatred of other races which led to criminal activities of the type outlined above being considered as a matter of course if not a matter of pride. The actions of a soldier in the Waffen SS who in September, 1939, acting entirely on his own initiative, killed 50 Jewish laborers whom he had been guarding, were described by the statement that as an SS man, he was “particularly sensitive to the sight of Jews,” and had acted “quite thoughtlessly in a youthful spirit of adventure” and a sentence of three-years imprisonment imposed on him was dropped under an amnesty. Hess wrote with truth that the Waffen SS were more suitable for the specific tasks to be solved in occupied territory

owing to their extensive training in questions of race and nationality. Himmler, in a series of speeches made in 1943, indicated his pride in the ability of the SS to carry out these criminal acts. He encouraged his men to be “tough and ruthless” he spoke of shooting “thousands of leading Poles” and thanked them for their cooperation and lack of squeamishness at the sight of hundreds and thousands of corpses of their victims. He extolled ruthlessness in exterminating the Jewish race and later described this process as “delousing.” These speeches show that the general attitude prevailing in the SS was consistent with these criminal acts.

CONCLUSION

The SS was utilized for purposes which were criminal under the Charter involving the persecution and extermination of the Jews, brutalities and killings in concentration camps, excesses in the administration of occupied territories, the administration of the slave labor program and the mistreatment and murder of prisoners of war. The Defendant Kaltenbrunner was a member of the SS implicated in these activities. In dealing with the SS the Tribunal includes all persons who had been officially accepted as members of the SS including the members of the Allgemeine SS, members of the Waffen SS, members of the SS Totenkopf Verbaende, and the members of any of the different police forces who were members of the SS. The Tribunal does not include the so-called SS riding units. Der Sicherheitsdienst des Reichsfuehrers SS (commonly known as the SD) is dealt with in the Tribunal’s Judgment on the Gestapo and SD.

The Tribunal declares to be criminal within the meaning of the Charter the group composed of those persons who had been officially accepted as members of the SS as enumerated in the preceding paragraph who became or remained members of the organisation with knowledge that it was being used for the commission of acts declared criminal by Article 6 of the Charter, or who were personally implicated as members of the organisation in the commission of such crimes, excluding, however, those who were

drafted into membership by the State in such a way as to give them no choice in the matter, and who had committed no such crimes. The basis of this finding is the participation of the organisation in War crimes and Crimes against humanity connected with the war; this group declared criminal cannot include, therefore, persons who had ceased to belong to the organisations enumerated in the preceding paragraph prior to 1st September, 1939.